

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM OSTLING, individually and as
Personal Representative of the Estate of
DOUGLAS OSTLING, deceased; JOYCE
OSTLING; and TAMARA OSTLING;

Plaintiffs,

v.

CITY OF BAINBRIDGE ISLAND, a political
subdivision of the State of Washington; JON
FEHLMAN; and JEFF BENKERT;

Defendants.

NO. 3:11-cv-05219-RBL

**ROBERTS DECLARATION IN
OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

Nathan P. Roberts declares and states as follows:

I am an attorney of record for the Ostling Family, Plaintiffs herein. I make this
declaration in opposition to Defendants' motion for summary judgment. I am over the age of
eighteen and am competent to testify to the matters set forth herein.

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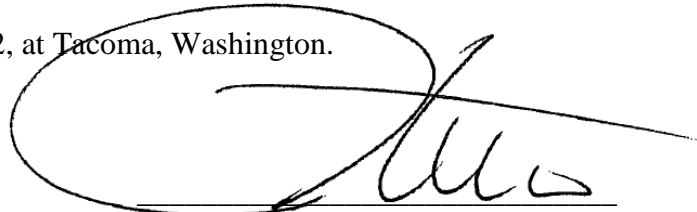
True and correct copies of the following materials are attached hereto as exhibits:

Ex. Description

1. Computer Aided Dispatch (CAD) Event Summary
2. Deposition of BIPD Officer Defendant Jeffrey Benkert, pp. 26, 27, 74, 78, 79, 88, 89, 109, 110, 121, 122
3. Deposition of BIPD Officer David Portrey, pp. 11, 12, 13, 14, 16, 17, 18, 76, 85
4. Deposition of Richard O. Cummins, M.D., M.P.H., M.Sc., pp. 32, 80
5. BIPD General Orders Manual, Section 11.030 ("Rendering Aid Following Use of Force")
6. Bainbridge Island Fire Department & EMT Record
7. Curriculum Vitae of Richard O. Cummins, M.D., M.P.H., M.Sc.
8. Deposition of BIPD Lt. Chris Jensen, pp. 8, 9, 10, 11, 17, 18, 19, 23, 24, 25
9. Deposition of BIPD Chief Defendant Jon Fehlman, pp. 33, 34, 86, 88, 89, 94, 124, 129, 130, 131
10. Facebook Page of Defendant Jeffrey Benkert
11. BIPD General Orders Manual, Section 13.135 ("Dealing with the Mentally Ill")
12. Still Images from Video Depositions of Officers Benkert and Portrey

I declare under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

Signed this 5th day of March, 2012, at Tacoma, Washington.



Nathan P. Roberts, WSBA No. 40457

EXHIBIT 1



EXHIBIT 1



Event Chronology -- P100173408

☒ System Comments

Time	Date	Terminal	Operator	Action
8:39:50 PM	10/26/2010	p13	9908	EVENT CREATED: 7700 SPRINGRIDGE RD NE BI : /HANSEN RD NE , Nm=(NP) OSTLING, DOUGLAS M , Addr=7700 SPRINGRIDGE RD NE ANI/ALI , Ph=(206) 780-8883 Ag=BIPD/BIPD, Beat=BIPD, Status=A, Pri=30, Hold Type=0, Primary Unit=P820, Primary Member=820, Current=F, Open Current=F, Type=UNKNO3-Unknown Problem
8:39:50 PM	10/26/2010	comm4	9908	EVENT COMMENT.....** LOI search completed at 10/26/10 20:39:50 MALE YELLING "WHAT ARE YOU!!" "WHAT IS THAT!?" OVER AND OVER WONT ANSWER QUESTIONS
8:39:58 PM	10/26/2010	p13	9908	EVENT COMMENT.....JUST YELLING OVER AND OVER
8:40:01 PM	10/26/2010	p13	9908	EVENT COMMENT.....VERY LOUD
8:40:54 PM	10/26/2010	p13	9908	EVENT COMMENT.....WHEN ASKED TO STOP YELLING
8:40:58 PM	10/26/2010	p13	9908	EVENT COMMENT.....HE SAID I DONT CARE!
8:41:23 PM	10/26/2010	p13	9908	EVENT COMMENT.....SAYING "ANSWER MY QUESTIONS"
8:41:32 PM	10/26/2010	p5	9971	P820, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=820
8:41:34 PM	10/26/2010	p13	9908	EVENT COMMENT.....CORRECTION: YELLING
8:41:50 PM	10/26/2010	p13	9908	EVENT COMMENT.....YELLING "YOU ARE USELESS"
8:41:54 PM	10/26/2010	p13	9908	EVENT COMMENT.....CALLER DISCONNECTED
8:42:11 PM	10/26/2010	p13	9908	EVENT COMMENT.....**
8:42:24 PM	10/26/2010	p13	9908	EVENT COMMENT.....WHEN CR ASKED IF IT WAS DOUGLAS..HE STOPPED YELLING FOR A SECOND
8:42:28 PM	10/26/2010	p13	9908	EVENT COMMENT.....THEN CONTINUED OVER AND OVER
8:42:46 PM	10/26/2010	p13	9908	EVENT COMMENT.....DID ADV CALLER WE WOULD SEND LE OUT TO CHECK ON HIM..BUT COULDNT GET A WORD IN EDGEWISE
8:43:41 PM	10/26/2010	p5	9971	EVENT COMMENT.....FYI---THE LEVEL OF YELLING SOUNDED SIMILAR TO AN EXCITED DELERIUUM STATE
8:44:43 PM	10/26/2010	p5	9971	P859, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=859
8:46:28 PM	10/26/2010	p5	9971	EVENT COMMENT.....CAD HX***FROM HX 10/1...AID CALL MALE IN MID-60S WITH CANCER HAVING RAPID HEART RATE...TRANSPORTED ALS....THIS HAD BEEN CALLED IN THEN BY HIS WIFE JOYCE OSTLING 206-842-4073***
8:49:56 PM	10/26/2010	p5	9971	EVENT COMMENT.....DIFFICULT TO LOCATE PREVIOUSLY....DIRECTIONS SHOWED...GOING SOUTH ON SPRINGRIDGE FROM FLETCHERBAY PAST HANSEN...IT WILL BE 3RD DRIVEWAY ON YOUR LEFT (EAST SIDE) PAST HANSEN....#S ON MAILBOX...SIGN BEHIND MAILBOX READS "THE WOODSMAN"...LONG DRIVEWAY...GREY-BRO RESIDENCE ITS AT THE VERY END OF THE DRIVEWAY
8:51:59 PM	10/26/2010	p5	9971	P859, CL, AR STANDING BY FOR 820, Emp=859

Time	Date	Type	ID	Message
				P859, ER, AR STANDING BY FOR 820, Emp=859
8:51:59 PM	10/26/2010	comm4	9971	EVENT COMMENT.....** LOI search completed at 10/26/10 20:51:59
8:52:01 PM	10/26/2010	p5	9971	P859, AR, AR STANDING BY FOR 820, Emp=859
8:52:16 PM	10/26/2010	p5	9971	EVENT COMMENT.....P859 IN AREA..WILL WAIT FOR 820 AT THE HEAD OF THE DRIVEWAY
8:52:37 PM	10/26/2010	p5	9971	P820, AR, 7700 SPRINGRIDGE RD NE BI:, Emp=820
8:52:40 PM	10/26/2010	p5	9971	P820, ER, 7700 SPRINGRIDGE RD NE BI:, Emp=820
8:53:48 PM	10/26/2010	p5	9971	P859, CL, 7700 SPRINGRIDGE RD NE BI:, Emp=859
				P859, ER, 7700 SPRINGRIDGE RD NE BI:, Emp=859
8:53:49 PM	10/26/2010	comm4	9971	EVENT COMMENT.....** LOI search completed at 10/26/10 20:53:49
8:53:54 PM	10/26/2010	p5	9971	P859, AR, 7700 SPRINGRIDGE RD NE BI:, Emp=859
				P820, AR, 7700 SPRINGRIDGE RD NE BI:, Emp=820
8:54:25 PM	10/26/2010	p5	9971	EVENT COMMENT.....P859 -- BOTH UNITS ARRIVING
8:57:46 PM	10/26/2010	p5	9971	EVENT COMMENT.....P859--STILL OUT
8:59:01 PM	10/26/2010	p5	9971	EVENT COMMENT.....UNIT---EMERGENCY TRAFFIC
8:59:04 PM	10/26/2010	p14	9956	EVENT COMMENT.....CHECKING....
8:59:15 PM	10/26/2010	p5	9971	EVENT COMMENT.....859---SHOTS FIRED
8:59:16 PM	10/26/2010	p14	9956	EVENT COMMENT.....WSP BEING ADV'D
8:59:25 PM	10/26/2010	p5	9971	EVENT UPDATED: 7700 SPRINGRIDGE RD NE BI : /HANSEN RD NE , Nm=(NP) OSTLING, DOUGLAS M , Addr=7700 SPRINGRIDGE RD NE ANI/ALI , Ph=(206) 780-8883
				EVENT COMMENT.....** Event Type changed from UNKNO3 to HELP at: 10/26/10 20:59:25
				** >>>> by: OP 71 on terminal: p5
				** Event Priority changed from 3 to 1 at: 10/26/10 20:59:25
				** >>>> by: OP 71 on terminal: p5
8:59:26 PM	10/26/2010	p5	9971	Ag=BIPD/BIPD, Beat=BIPD, Status=A, Pri=10, Hold Type=0, Primary Unit=P820, Primary Member=820, Current=F, Open Current=F, Type=HELP-Priority OFFICER Back-up
				EVENT COMMENT.....** KITSAP event X100000216 created
8:59:36 PM	10/26/2010	p5	9971	EVENT COMMENT.....859--NEED HELP...MAN WITH AN AXE
8:59:43 PM	10/26/2010	p5	9971	N074, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=74
8:59:49 PM	10/26/2010	p5	9971	P813, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=813
8:59:52 PM	10/26/2010	p4	9979	EVENT COMMENT.....BC ON BPD
9:00:31 PM	10/26/2010	p5	9971	EVENT COMMENT.....859-- WHITE MONUMENT MARKER WITH THE ADDRESS
9:01:19 PM	10/26/2010	p5	9971	EVENT COMMENT.....*****FOR AID**820--MALE HAS BARRICADED HIMSELF IN AN UPSTAIRS ROOM IN THE
				GARAGE,,,UNK IF ANYONE HAS BEEN HIT...REQ AID STAGE FOR THIS
9:01:23 PM	10/26/2010	p5	9971	P813, ER, 7700 SPRINGRIDGE RD NE BI:, Emp=813
9:01:24 PM	10/26/2010	p13	9908	EVENT UPDATED: 7700 SPRINGRIDGE RD NE BI : /HANSEN RD NE , Nm=(NP) OSTLING, DOUGLAS M , Addr=7700 SPRINGRIDGE RD NE ANI/ALI , Ph=(206) 780-8883
				EVENT UPDATED: 7700 SPRINGRIDGE RD NE BI : /HANSEN RD NE , Nm=(NP) OSTLING, DOUGLAS M , Addr=7700 SPRINGRIDGE RD NE ANI/ALI , Ph=(206) 780-8883
				Ag=BIPD/BIPD, Beat=BIPD, Status=A, Pri=10, Hold Type=0, Primary Unit=P820, Primary Member=820, Current=F, Open Current=F, Type=HELPPB-Priority OFFICER Backup-BLS
				EVENT COMMENT.....** Event Type changed from HELP to HELPPB at: 10/26/10 21:01:24

** >>>> by: OP 8 on terminal: p13

** Event Type changed from HELP to HELPB at: 10/26/10 21:01:24

** >>>> by: OP 8 on terminal: p13

9:01:25 PM	10/26/2010	p13	9908	EVENT COMMENT.....** BIFD event F100025076 created
9:01:32 PM	10/26/2010	p5	9971	EVENT COMMENT.....813--CALL 805 AT HOME TO ADVISE
9:01:50 PM	10/26/2010	p5	9971	L113, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=113
9:01:54 PM	10/26/2010	p5	9971	L084, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=84
9:01:58 PM	10/26/2010	p5	9971	L113, ER, 7700 SPRINGRIDGE RD NE BI:, Emp=113
				N074, ER, 7700 SPRINGRIDGE RD NE BI:, Emp=74
9:02:05 PM	10/26/2010	p5	9971	P605, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=605
9:02:06 PM	10/26/2010	p5	9971	P612, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=612
9:02:09 PM	10/26/2010	p5	9971	V667, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=667
9:02:11 PM	10/26/2010	p5	9971	S602, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=602
9:02:15 PM	10/26/2010	p5	9971	S903, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=903
9:02:33 PM	10/26/2010	p5	9971	P135, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=135
9:02:37 PM	10/26/2010	p5	9971	P1105, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=1105
9:02:44 PM	10/26/2010	p5	9971	S1102, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=1102
9:02:47 PM	10/26/2010	\$Y057	57	Y057, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=57
9:03:17 PM	10/26/2010	p13	9908	EVENT COMMENT.....A21 WILL ADVISE OF STAGING LOCATION
9:03:22 PM	10/26/2010	\$N074	74	N074, ER, 7700 SPRINGRIDGE RD NE BI:, Emp=74
9:03:54 PM	10/26/2010	p1	9974	P859, ~, 7700 SPRINGRIDGE RD NE BI:, Emp=859
9:03:54 PM	10/26/2010	p2	9981	P820, ~, 7700 SPRINGRIDGE RD NE BI:, Emp=820
9:04:15 PM	10/26/2010	p4	9979	EVENT COMMENT.....WSP--3 UNITS ENROUTE FROM PORT ORCHARD AND ONE FROM OUR OFFICE
9:04:17 PM	10/26/2010	p15	9934	EVENT COMMENT.....3 KCSO SOUTH UNITS...AND 2 SGT ER
9:04:30 PM	10/26/2010	p5	9971	EVENT COMMENT.....805 ADV'D AND ER
9:05:08 PM	10/26/2010	p13	9908	EVENT COMMENT.....** Cross Referenced to Event # P100173417 at: 10/26/10 21:05:08
				** >>>> by: OP 8 on terminal: p13
				CROSS REFERENCED TO EVENT=P100173417
9:05:13 PM	10/26/2010	p5	9971	EVENT COMMENT.....820 TO 813--DRIVE WAY SOUTH OF THE ADDRESS 7734
9:05:42 PM	10/26/2010	p5	9971	P820, CU, Comm=Alarm Timer Extended: 0, 7700 SPRINGRIDGE RD NE BI:, Emp=820
9:05:43 PM	10/26/2010	p5	9971	P859, CU, Comm=Alarm Timer Extended: 0, 7700 SPRINGRIDGE RD NE BI:, Emp=859
9:06:17 PM	10/26/2010	p5	9971	P813, AR, 7700 SPRINGRIDGE RD NE BI:, Emp=813
9:06:18 PM	10/26/2010	\$L084	84	L084, AM, 7700 SPRINGRIDGE RD NE BI:, Emp=84
9:06:43 PM	10/26/2010	p5	9971	P822, DP, 7700 SPRINGRIDGE RD NE BI:, Emp=822
9:07:27 PM	10/26/2010	p1	9974	V667, UC, Comm=Preempt, 7700 SPRINGRIDGE RD NE BI:, Emp=667
9:07:28 PM	10/26/2010	p1	9974	S602, UC, Comm=Preempt, 7700 SPRINGRIDGE RD NE BI:, Emp=602
9:07:29 PM	10/26/2010	p1	9974	P612, UC, Comm=Preempt, 7700 SPRINGRIDGE RD NE BI:, Emp=612
9:07:30 PM	10/26/2010	p1	9974	P605, UC, Comm=Preempt, 7700 SPRINGRIDGE RD NE BI:, Emp=605
9:07:55 PM	10/26/2010	p13	9908	EVENT COMMENT.....A21--STAGING ON SPRINGRIDGE..1 BLK SOUTH OF FLETCHER BAY
9:08:00 PM	10/26/2010	comm4	9908	EVENT COMMENT.....** LOI search completed at 10/26/10 21:08:00
9:09:58 PM	10/26/2010	p2	9981	S903, UC, Comm=Preempt, 7700 SPRINGRIDGE RD NE BI:, Emp=903

9:10:21 PM	10/26/2010	p2	9981	P1105, UC, Comm=Preempt, 7700 SPRINGRIDGE RD NE BI:, Emp=1105
9:10:22 PM	10/26/2010	comm4	9908	EVENT COMMENT.....** LOI search completed at 10/26/10 21:10:22
9:10:24 PM	10/26/2010	\$P822	822	P822, AR, 7700 SPRINGRIDGE RD NE BI:, Emp=822
9:10:25 PM	10/26/2010	comm4	9908	EVENT COMMENT.....** LOI search completed at 10/26/10 21:10:25
9:10:29 PM	10/26/2010	p2	9981	S1102, UC, Comm=Preempt, 7700 SPRINGRIDGE RD NE BI:, Emp=1102
9:10:55 PM	10/26/2010	p13	9908	EVENT UPDATED: 7700 SPRINGRIDGE RD NE BI : /HANSEN RD NE , Nm=(NP) OSTLING, DOUGLAS M , Addr=7700 SPRINGRIDGE RD NE ANI/ALI , Ph=(206) 780-8883
9:11:42 PM	10/26/2010	p14	9956	EVENT COMMENT.....WSP STILL ER...
9:13:49 PM	10/26/2010	p2	9981	EVENT COMMENT.....P813 -- SITUATION SAME
9:14:39 PM	10/26/2010	p2	9981	EVENT COMMENT.....P859 -- ONLY NEED ABOUT 3 OR 4 UNITS
9:15:40 PM	10/26/2010	p2	9981	EVENT COMMENT.....P820 -- GOT A LADDER ATTEMPTING TO LOOK INTO THE UPSTAIRS
9:16:31 PM	10/26/2010	p2	9981	Y057, ER, 7700 SPRINGRIDGE RD NE BI:, Emp=57
9:16:46 PM	10/26/2010	p2	9981	S805, DP, Comm=NT, 7700 SPRINGRIDGE RD NE BI:, Emp=805
9:16:47 PM	10/26/2010	p2	9981	S805, ER, Comm=NT, 7700 SPRINGRIDGE RD NE BI:, Emp=805
9:17:46 PM	10/26/2010	p2	9981	L113, UC, Comm=Preempt, 7700 SPRINGRIDGE RD NE BI:, Emp=113
9:17:50 PM	10/26/2010	p2	9981	N074, UC, Comm=Preempt, 7700 SPRINGRIDGE RD NE BI:, Emp=74
9:17:59 PM	10/26/2010	p2	9981	Y057, UC, Comm=Preempt, 7700 SPRINGRIDGE RD NE BI:, Emp=57
9:18:16 PM	10/26/2010	p2	9981	P135, UC, Comm=Preempt, 7700 SPRINGRIDGE RD NE BI:, Emp=135
9:18:19 PM	10/26/2010	p13	9908	EVENT COMMENT.....A800---PUT ME ON THE SCREEN..ER
9:18:30 PM	10/26/2010	p13	9908	A800, DP, Comm=NT, 7700 SPRINGRIDGE RD NE BI:, Emp=800
9:18:31 PM	10/26/2010	p13	9908	A800, ER, Comm=NT, 7700 SPRINGRIDGE RD NE BI:, Emp=800
9:19:03 PM	10/26/2010	p2	9981	EVENT COMMENT.....P820 -- UPSTAIRS APT DOOR IS LOCKED
9:20:17 PM	10/26/2010	p2	9981	EVENT COMMENT.....P820 -- ATTEMPT TO CT RP FROM ORIGINAL CALL
9:20:48 PM	10/26/2010	p2	9981	EVENT COMMENT.....OP081 -- CALLING INS
9:21:16 PM	10/26/2010	p2	9981	EVENT COMMENT.....VM ON CALL INS
9:21:19 PM	10/26/2010	p2	9981	EVENT COMMENT.....P820 ADVD
9:22:27 PM	10/26/2010	p2	9981	EVENT COMMENT.....P820 -- PUSHED OPEN DOOR SO A RAM WOULD BE ADEQUATE
9:23:40 PM	10/26/2010	p2	9981	EVENT COMMENT.....805>UNITS ON SCN..SWAT COMING..HOLD ENTRY FOR THEM
9:23:57 PM	10/26/2010	p2	9981	EVENT COMMENT.....P820 -- >UNITS..WE HAVE GOT THE KEYS TO THE DOOR
9:24:09 PM	10/26/2010	p13	9908	EVENT COMMENT.....DC21 ER NON PRIORITY..ADVD OF STAGING LOCATION
9:25:02 PM	10/26/2010	comm4	9908	EVENT COMMENT.....** LOI search completed at 10/26/10 21:25:02
9:30:44 PM	10/26/2010	p15	9934	X814, DP, Comm=NT, 7700 SPRINGRIDGE RD NE BI:, Emp=814
9:30:45 PM	10/26/2010	p15	9934	X814, ER, Comm=NT, 7700 SPRINGRIDGE RD NE BI:, Emp=814
9:30:50 PM	10/26/2010	p2	9981	P823, DP, Comm=NT, 7700 SPRINGRIDGE RD NE BI:, Emp=823
9:30:50 PM	10/26/2010	p15	9934	EVENT COMMENT.....X814 ER..AND SWITCHING TO ONE
9:30:51 PM	10/26/2010	p2	9981	P823, ER, Comm=NT, 7700 SPRINGRIDGE RD NE BI:, Emp=823
9:31:47 PM	10/26/2010	p2	9981	A800, AR, 7700 SPRINGRIDGE RD NE BI:, Emp=800
9:33:55 PM	10/26/2010	p2	9981	S805, AR, 7700 SPRINGRIDGE RD NE BI:, Emp=805
9:40:29 PM	10/26/2010	p15	9934	EVENT COMMENT.....068/091 WILL BE ER...
9:42:18 PM	10/26/2010	p2	9981	EVENT COMMENT.....S903 -- SPRINGRIDGE/HANSON BLKNG THE ROAD
9:43:37 PM	10/26/2010	comm4	9981	EVENT COMMENT.....** LOI search completed at 10/26/10 21:43:37
9:45:36 PM	10/26/2010	\$P823	823	P823, UE, Emp=823
				P823, UU, Emp=823

9:45:37 PM	10/26/2010	\$P823	823	P823, UC, Comm=New equipment list for Unit [P823] :, 7700 SPRINGRIDGE RD NE BI:, Emp=823
9:46:26 PM	10/26/2010	\$P823	823	P823, AR, 7700 SPRINGRIDGE RD NE BI:, Emp=823
9:46:46 PM	10/26/2010	p5	9971	EVENT COMMENT.....B/C NORTH ALL NORTH UNITS NOT ON THIS DETAIL MOVE TO LE4 AND SIGN IN...ALL UNITS ON SPRINGRIDGE REMAIN ON NORTH FREQ...
9:47:24 PM	10/26/2010	p2	9981	Disposition Assigned=J
9:48:18 PM	10/26/2010	p5	9971	X814, AR, 7700 SPRINGRIDGE RD NE BI:, Emp=814
9:56:17 PM	10/26/2010	p5	9971	EVENT COMMENT.....139 & 82 ARE W/ 67
10:00:51 PM	10/26/2010	p5	9971	EVENT COMMENT.....S020--REMAIN ON ET,,,,,,NO TONES
10:14:00 PM	10/26/2010	p13	9908	EVENT COMMENT.....DC21--M21 WILL BE MOVING UP
10:14:39 PM	10/26/2010	p5	9971	EVENT COMMENT.....S020--HAVE AID MOVE UP TO THE END OF THE DRIVEWAY
10:15:01 PM	10/26/2010	p5	9971	EVENT COMMENT.....81 TO 20--THEY ARE ALREADY HERE..ABOUT 100 FEET FROM THE DRIVE
10:15:06 PM	10/26/2010	p5	9971	EVENT COMMENT.....20 AK..THATS GOOD THERE
10:15:22 PM	10/26/2010	p5	9971	EVENT COMMENT.....LARGE AMOUNT OF BLOOD
10:16:21 PM	10/26/2010	p5	9971	EVENT COMMENT.....UNIT---SUSPECT IS DOWN JUST OFF THE DOOR AT DINING ROOM...ACCESS TO THE LEFT..I CAN COVER HIS LEFT HAND CANNOT SEE HIS RIGHT
10:16:27 PM	10/26/2010	p5	9971	EVENT COMMENT.....67--RIGHT BEHIND THE DOOR
10:16:36 PM	10/26/2010	p5	9971	EVENT COMMENT.....S020--HAVE AID COME DOWN THE DRIVEWAY
10:16:59 PM	10/26/2010	p5	9971	EVENT COMMENT.....S023--HAVE AID GO ALL THE WAY TO THE HOUSE
10:17:02 PM	10/26/2010	p11	9984	EVENT COMMENT.....M21 ADV'D
10:17:08 PM	10/26/2010	p11	9984	EVENT COMMENT.....TO GO THE HOUSE
10:19:07 PM	10/26/2010	p5	9971	EVENT COMMENT.....20--UPDATE FOR AID...UNRESPONSIVE,...GUNSHOT WOUNDS
10:19:27 PM	10/26/2010	p13	9908	EVENT COMMENT.....M21 ADV'D
10:21:55 PM	10/26/2010	p15	9934	Disposition Assigned=J
10:24:48 PM	10/26/2010	comm4	9981	EVENT COMMENT.....** LOI search completed at 10/26/10 22:24:48
10:25:11 PM	10/26/2010	p2	9981	EVENT COMMENT.....S903 -- I HAVE MOVED TO SPRINGRIDGE/SOLANA LN (VIA LE4)
10:25:24 PM	10/26/2010	p2	9981	EVENT COMMENT.....S903 -- AND BACK ON REGULAR NORTH
10:26:19 PM	10/26/2010	p5	9971	EVENT COMMENT.....NORMAL TRAFFIC
10:27:00 PM	10/26/2010	p5	9971	EVENT COMMENT.....OK TO HAVE NORTH UNITS ON LE4 RETURN TO NORTH FREQ
10:30:10 PM	10/26/2010	p5	9971	EVENT COMMENT.....903 TO 805--MEDIA ARRIVING
10:30:33 PM	10/26/2010	p5	9971	P823, AM, 7700 SPRINGRIDGE RD NE BI:, Emp=823
10:36:34 PM	10/26/2010	p5	9971	EVENT COMMENT.....** Case number K10011941 has been assigned ** >>>> by: OP 71 on terminal: p5 CASE NUMBER ASSIGNED=K10011941 Disposition Assigned=default
10:40:49 PM	10/26/2010	p13	9908	EVENT COMMENT.....DC21--ALL FIRE UNITS AVAIL
10:40:56 PM	10/26/2010	p13	9908	EVENT COMMENT.....** CLOSING FIRE CALL **
10:41:06 PM	10/26/2010	p13	9908	Disposition Assigned=ND
10:48:15 PM	10/26/2010	p2	9981	EVENT COMMENT.....L113/F115 CLR
10:58:59 PM	10/26/2010	p5	9971	EVENT COMMENT.....D049 ER
11:11:10 PM	10/26/2010	p15	9934	EVENT COMMENT.....D045 ER

**Byers & Anderson Court Reporters/Video/Videoconferencing
Seattle/Tacoma, Washington**

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM OSTLING, individually and)	
as Personal Representative of the)	
Estate of DOUGLAS OSTLING,)	
deceased; JOYCE OSTLING; and)	
TAMARA OSTLING,)	No. 3:11-cv-05219
)	
Plaintiffs,)	
)	
vs.)	
)	
CITY OF BAINBRIDGE ISLAND, a)	
political subdivision of the State)	
of Washington; JON FEHLMAN; and)	
JEFF BENKERT,)	
)	
Defendants.)	

VIDEOTAPED DEPOSITION OF JEFFREY D. BENKERT

January 2, 2012

Seattle, Washington

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Court Reporters/Video/Videoconferencing

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**Jeffrey D. Benkert
January 2, 2012**

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1 please, Counsel.

2 A I'm just saying it's -- there's many ways and it depends
3 call to call. So I can't answer it specifically
4 without...

5 Q (By Mr. Roberts) Okay. You testified that the thing you
6 remember from all those written materials is that you
7 would never compromise officer safety; correct?

8 A That's right.

9 Q But that's about all you remember from the materials?

10 MR. ESTES: Objection to form.

11 Q (By Mr. Roberts) Correct?

12 A I said that's what I remember. It's always in there.

13 Q Okay.

14 A One of the things that is always in there, every single
15 one of those articles. But that can be said about most
16 police magazine articles.

17 Q What else did you learn from those written materials
18 about how to deal with people with mental illness,
19 besides not compromising officer safety?

20 A Again, the same things I just listed: remain calm,
21 reinforce your logic, do not enter into any of their
22 possible delusions. You do not reinforce those. Things
23 like that.

24 Q And when you mentioned never compromising officer safety,
25 what do you understand that to mean?

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1 **A Just maintain your own awareness.**

2 Q Anything else?

3 **A Just continually look for things that make you unsafe.**

4 Q And then you try to avoid those things; correct?

5 **A That's right.**

6 **Q From your training, do you believe that dealing with the**
7 **mentally ill requires special police skills and ability?**

8 **MR. ESTES: Objection to form and**
9 **foundation.**

10 **A No.**

11 Q (By Mr. Roberts) Do you believe that mentally ill
12 persons are less predictable than others?

13 **A Not necessarily.**

14 Q Do you believe that mentally ill are more or less likely
15 to react violently towards law enforcement?

16 **A Not necessarily.**

17 Q Do you know one way or the other whether they're more or
18 less likely to react violently towards law enforcement?

19 **A No.**

20 Q You don't know?

21 Do you believe it's important to deal with the
22 mentally ill in a constructive and humane manner?

23 **MR. ESTES: Objection to form.**

24 **A It's important to do that to everybody.**

25 Q (By Mr. Roberts) And have you been trained to recognize

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1 MR. ESTES: Objection to form.

2 A I don't know if the door was closed with a hand.

3 Q (By Mr. Roberts) Is it possible that he closed it with
4 his body?

5 A Yes.

6 Q Would he need to be behind the door in order to do that?

7 A Yeah.

8 Q Is it possible that he wasn't coming over to attack you
9 or your partner, but that he was coming over to close the
10 door?

11 A It's possible.

12 Q Did he ever raise the ax above his head?

13 A Not that I saw.

14 Q Did he ever hold the ax in any manner other than the
15 manner that you've already demonstrated here today?

16 A No.

17 Q Never?

18 A No, not that I saw.

19 (Exhibit No. 1 marked
20 for identification.)
21

22 Q (By Mr. Roberts) Handing what you I've marked as Exhibit
23 1 to your deposition, I'm going to represent to you that
24 this is a schematic drawing of the landing that was
25 created by the Kitsap County Sheriff's Department.

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1 A Not immediately.

2 Q She was in the doorway to the living room?

3 A I believe that's the first time I saw her, yeah. I
4 wasn't looking in that direction. I was looking up the
5 stairs.

6 Q And what conversations occurred at that point?

7 A Well, I was talking to Dave, and Mrs. Ostling was trying
8 to get upstairs to check on Doug, and I told her that she
9 couldn't do that.

10 Q Did she ask why you had shot her son?

11 A Yes.

12 Q And she wanted to go check on him; correct?

13 A Yes.

14 Q And Mr. Ostling wanted to go check on him too; correct?

15 A He didn't bring that to me, no, but I assumed he probably
16 wanted to, yeah.

17 Q And you told them they couldn't do that?

18 A That's right.

19 Q Why not?

20 A Because I did not know if my shots had been effective.

21 Q Meaning you didn't know whether or not you had hit him?

22 A That's right.

23 Q At that point, were you thinking it was likely that you
24 had hit him?

25 A Yes.

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1 Q Why did you think that?

2 A Short distance.

3 Q Do you have any idea of what part of the body you might
4 have hit him in?

5 A No idea.

6 Q And so if Bill or his wife Joyce wanted to go up upstairs
7 and check on their son, why couldn't they do that?

8 A Because I did not know if he was injured. He still has
9 an ax and he's behind a locked door. So now I know that
10 he has a dangerous weapon back there.

11 And if he is uninjured, it's highly possible that he
12 could assume that it's the police coming in.

13 Q You just said he was behind a locked door.

14 A (Witness nods head.) Mm-hm.

15 Q How do you know the door was locked?

16 A Officer Portrey and I went back up and tried to open it.

17 Q And what were you going to do if it had opened?

18 A We were going to see if he was hurt.

19 Q Were you concerned for his welfare at that point?

20 A I was.

21 Q Because you thought you might have shot him?

22 A That's right.

23 Q But you had a key to the door; correct?

24 A Not anymore.

25 Q Where was the key to the door?

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1 Q What was the emergency, as you understood it?

2 A I was there to check on his welfare, to make sure he had
3 not harmed himself or someone else. And I couldn't do
4 that behind a closed door.

5 Q Was there anything that led you to believe that he might
6 be at risk for harming himself?

7 A He was in an agitated state, he initiated a 911 call, and
8 his father had advised me that he suffered from a mental
9 illness.

10 Q Did you talk to his father at all about whether or not he
11 had ever engaged -- engaged in self-injurious behavior
12 before?

13 A No.

14 Q Ever attempted suicide or anything like that?

15 A I did not.

16 Q So you didn't have any reason to believe that he would
17 harm himself; right?

18 A No.

19 Q And you didn't have any reason to believe that there was
20 anyone else in the apartment; correct?

21 MR. ESTES: Objection to form.

22 A I was trying to ascertain that information.

23 Q (By Mr. Roberts) Did you have any -- any reason to
24 believe there was anyone else in the apartment other than
25 Doug?

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1 A **No.**

2 Q And the nature of the emergency you say was that he was
3 agitated?

4 A **That's right.**

5 Q And mentally ill?

6 A **According to his father.**

7 Q Anything else?

8 A **No.**

9 MR. ESTES: And he called 911, as you
10 stated.

11 Q (By Mr. Roberts) After the shooting, did you and Officer
12 Portrey discuss whether you could go back into the
13 apartment using the key or by kicking the door in?

14 A **Yes.**

15 Q Tell me about those conversations.

16 A We were going back and forth about whether we were going
17 to try and do that.

18 We know that he is armed, we know that he is
19 possibly wounded, but we also know that that is a
20 barricaded suspect situation and that you should wait for
21 additional resources.

22 So we had to decide if we were going to do that,
23 just the two of us, or not.

24 Q What about when you had additional officers on the scene?
25 You said seven to eight within ten minutes.

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1 **A I don't know.**

2 **Q Was the finding of dishonesty in your responses to that**
3 **investigation pertaining to discrepancies between your**
4 **and your partner's statements, or between --**

5 **A No.**

6 **Q What was it in relation to?**

7 **A The difference between my information and the**
8 **complainant's.**

9 **Q Your testimony is that you and your partner gave the same**
10 **statement?**

11 **A We -- in the Board of Rights hearing, yes, we did.**

12 **Q How about prior to that?**

13 **A I don't know. I wasn't there for that.**

14 **Q And I want to be clear about this, because you mentioned**
15 **a number of reasons why you would come to Bainbridge**
16 **Island from LAPD. You mentioned some family reasons.**
17 **Was the primary reason that you were coming from**
18 **LAPD to Bainbridge Island because you knew you were about**
19 **to be fired for dishonesty?**

20 **MR. ESTES: Objection to form.**

21 **A I had resigned.**

22 **THE REPORTER: I'm sorry?**

23 **MR. ESTES: Objection to form.**

24 **Q (By Mr. Roberts) And you had resigned because you were**
25 **about to be fired; correct?**

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1 **A Yes.**

2 **Q Okay. And was that the primary reason why you applied to**
3 **the Bainbridge Island Police Department?**

4 **A I applied to many police departments.**

5 **Q Is that the primary reason why you applied to a number of**
6 **different police departments?**

7 **A Yes.**

8 Q Because it's your understanding that it's better for you
9 to be applying while you're still employed than to be
10 applying after you've been terminated; correct?

11 **A It was a good decision to me at the time.**

12 Q Did you feel that the likelihood of obtaining another
13 police job would be lower once you had actually been
14 terminated for being dishonest?

15 **A It's possible.**

16 Q And, in fact, it's the case; right?

17 **A I don't know. I got hired, so...**

18 Q Did you put anything in writing on your initial
19 application to the Bainbridge Island Police Department to
20 let them know that you were under investigation and were
21 about to be terminated for dishonesty?

22 **A I don't know if it was in writing, but the chief and the**
23 **deputy chief were well informed.**

24 Q At the end of the process, they were informed; correct?

25 **A No. They were informed during the whole thing.**

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1 **A No.**

2 **Q Do you have an understanding as to whether either or both**
3 of the shots that struck -- struck Douglas Ostling went
4 through the door before striking him?

5 **A I don't know.**

6 **Q Is it possible that that's the case?**

7 **A Yes.**

8 **Q Is it possible that Douglas Ostling was actually behind**
9 the door at the time that you opened fire on him?

10 **A Not completely.**

11 **Q How about almost entirely?**

12 **MR. ESTES: Objection to form. Vague.**

13 **A I don't know.**

14 **Q (By Mr. Roberts) You don't know whether he was behind**
15 the door at the time that you opened fire on him?

16 **A I could see enough of him to know that he was there. I**
17 don't know what portions of him were behind the door.

18 **Q If any?**

19 **A Right.**

20 **Q Or whether it was the majority of his body?**

21 **A Correct.**

22 **Q And whether, at that point, he was holding the ax with**
23 both hands or one or trying to close the door?

24 **A I never saw his hands come off the ax handle.**

25 **Q But you couldn't see them at the time you opened fire?**

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1 **A I could.**

2 Q Both of them?

3 **A Yes.**

4 Q Could you see his legs at the time you opened fire?

5 **A Yes.**

6 Q How much of his torso could you see at the time you
7 opened fire?

8 **A I could see the entirety of the left side of his body.**

9 Q Just the left side?

10 **A At least, yes.**

11 Q But you're not sure whether or not you could see the
12 right?

13 **A Correct.**

14 **Q And your testimony is that he was holding the ax across**
15 **his chest?**

16 **A When I began firing, yes.**

17 **Q With his right hand near the head of the ax?**

18 **A The grip never changed.**

19 Q And it's possible that that hand was in fact behind the
20 door at the time that you opened fire; correct?

21 **A That's right.**

22 Q Okay. As well as the head of the ax; correct?

23 **A Yes.**

24 Q At the time that you responded to this incident, were
25 you -- did anyone on the Bainbridge Island Police



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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM OSTLING, individually and)	
as Personal Representative of the)	
Estate of DOUGLAS OSTLING,)	
deceased; JOYCE OSTLING; and)	
TAMARA OSTLING,)	No. 3:11-cv-05219
)	
Plaintiffs,)	
)	
vs.)	
)	
CITY OF BAINBRIDGE ISLAND, a)	
political subdivision of the State)	
of Washington; JON FEHLMAN; and)	
JEFF BENKERT,)	
)	
Defendants.)	

VIDEOTAPED DEPOSITION OF DAVID PORTREY

January 2, 2012

Seattle, Washington

Byers & Anderson, Inc.

Court Reporters/Video/Videoconferencing

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**David Portrey
January 2, 2012**

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1 **A -- basic -- basic patrol procedures.**

2 Q Okay. As a reserve officer -- and then we'll get to the
3 provisional officer status in the moment -- do you -- are
4 you required to be familiar with the General Orders
5 Manual for the Bainbridge Island Police Department?

6 **A Yes.**

7 Q And are you familiar with that manual?

8 **A Yes.**

9 Q Are you also required to take an oath of office?

10 **A Yeah.**

11 Q Similar -- is it similar to that of a fully commissioned
12 officer? Different? The same?

13 **A It's the same.**

14 Q And you're familiar, too, with the -- the code of ethics
15 that's set forth in the General Procedures Manual for the
16 Bainbridge Island Police Department?

17 **A Yes.**

18 Q After the -- after graduating from the academy and then
19 your field training, as well, when was it -- what was
20 your status after that, graduating from the academy?

21 **A After graduating from the basic academy, I was hired on**
22 **as a provisional officer.**

23 Q And what year was that?

24 **A That was in 1996. Yes, I believe it was 1996.**

25 Q Okay. And then tell me about, what are the different --

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1 what's the difference in the responsibility of a
2 provisional officer as opposed to a reserve officer?

3 **A My duties or responsibilities?**

4 **Q Mm-hm.**

5 **A My duties are that of a regular full-time police officer.**
6 **My responsibilities are -- are really no different. If a**
7 **reserve were to respond to a call by himself, I could**
8 **respond to a call by himself -- by myself.**

9 **The duties of a reserve are limited to what they can**
10 **do just based on experience and -- whereas I've had**
11 **the -- the training, the field training. At that point**
12 **when I became a provisional officer, I was equal to that**
13 **of a regular officer.**

14 **Q And for how long can one be a provisional officer? Is it**
15 **indefinite?**

16 **A Overall, or --**

17 **Q Is it indefinite, or do you have to be reupped for**
18 **provisional office in some -- some capacity?**

19 **A I believe the -- I believe back in '96, it was a six-**
20 **month appointment. And I believe the chief could request**
21 **an extension.**

22 **Q Approximately how long have you been -- whether it's**
23 **consistent or added up all together, how long have you**
24 **been a provisional officer? How many months? Years?**

25 MR. ESTES: Objection to form. Total

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1 years, or are you asking him to add up all the different
2 months that he's served?

3 Q (By Ms. Kays) I'm wanting to find out in total how
4 many -- how many months and/or years you've been a
5 provisional officer.

6 A **I would have to guess. A little over six years in total.**

7 Q Was that six consistent years, or were there times where
8 you were not granted a provisional status after having
9 had it granted to you?

10 A **No, six total years over -- approximately six total years**
11 **within my 14 years as a reserve officer, I was a**
12 **provisional officer.**

13 Q And are those six consecutive years, one right after the
14 other?

15 A **No. No.**

16 Q How many times has the chief asked to extend your
17 provisional appointment past the six-month period?

18 A **Which chief?**

19 Q You tell me. How many chiefs have you had?

20 A **It would be four chiefs.**

21 Q Okay. And why don't you give me the names of the four
22 chiefs, please.

23 A **Chief John Sutton, Chief Bill Cooper, Chief Matt Haney,**
24 **and Chief John Fehlman.**

25 Q How many times did Chief Sutton extend your provisional

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1 status?

2 **A I'm not sure.**

3 Q Okay.

4 **A I don't -- yeah.**

5 Q What about Chief Cooper?

6 **A I believe it was twice.**

7 Q And Chief Haney?

8 **A Maybe two or three times.**

9 Q And Chief Fehlman?

10 **A Once.**

11 Q What was the one time that he extended your provisional
12 status? When was that?

13 **A It was, I believe, April of 2011.**

14 Q So he -- as of April of 2011, he wanted you to again
15 continue to be a provisional officer for another six
16 months?

17 **A I believe it was four months.**

18 Q Four months? Okay.

19 Why are you not -- you said you're a reserve
20 officer, as you sit here today. Correct?

21 **A Correct.**

22 Q Why are you no longer a provisional officer?

23 **A My extension was up, and I believe by civil service**
24 **rules, I can't exceed a certain amount of time in a one**
25 **calendar year. So it's -- I'm limited to, I believe, a**

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1 **A He just asked if -- if I'd be willing to stay on.**

2 **Q And how did you respond?**

3 **A I told him I would.**

4 **Q And how long did you -- did you remain in provisional**
5 **status from April of 2011 forward?**

6 **A I believe it was August 31st.**

7 **Q Do you want to be a fully commissioned officer?**

8 **A Sometimes yes, sometimes no.**

9 **Q Why sometimes yes?**

10 **A It can be a fun job.**

11 **Q What makes it fun?**

12 **A Friendships I have gained over the years; some of the**
13 **people I work with.**

14 **Q Anything else?**

15 **A Not off the top of my head, no.**

16 **Q And I think you said "sometimes yes, sometimes no."**
17 **What's the "sometimes no" part?**

18 **A It can be an incredibly taxing profession.**

19 **Q How so?**

20 **A You see a lot of things that you'd rather not see.**

21 **Q Does anything in particular come to mind?**

22 **A Dead bodies, horrific car accidents.**

23 **Q Is there a reason why you have never applied -- or if you**
24 **have -- I should have started out that way: Have you**

25 **ever applied to be a fully commissioned officer?**

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1 **A Yes, I have.**

2 **Q With the Bainbridge Island Police Department?**

3 **A Yes.**

4 **Q And when did you make that application?**

5 **A I believe it was 1999, I believe.**

6 Q And was that application accepted or rejected?

7 **A It was accepted.**

8 Q It was accepted?

9 **A Yes, it was.**

10 Q And so in 1999, were you a fully commissioned officer?

11 **A No, I was not.**

12 Q What happened?

13 **A I -- I was a reserve officer.**

14 Q I thought you said that you were accepted to be a fully
15 commissioned officer in 1999.

16 **A They accepted my application.**

17 Q Okay. And were you -- maybe we're talking about the same
18 thing; I'm just not being articulate enough.

19 They accepted your application, but did they say,
20 hey, we want you to come be a commissioned officer?

21 Do you understand what -- understanding what I'm
22 saying?

23 **A Yes, I do.**

24 **Q Did they extend that position to you?**

25 **A No, they did not.**

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1 Q Do you know why?

2 A They hired somebody else.

3 Q And who was the person that they hired, if you know?

4 A I can't recall.

5 Q Was that the only time that you had applied to be a fully
6 commissioned officer with the Bainbridge Island Police
7 Department?

8 A I believe I put an application in a year before that.

9 Q And what happened in that instance?

10 A My test scores on the written weren't high enough to, I
11 believe, make the list.

12 Q And what's the -- what's the, I guess, baseline for your
13 written test score to make the list?

14 A I don't know.

15 Q Oh, come on. You don't know?

16 A I know I didn't score high enough to make the list.

17 Q And what was your score?

18 A They didn't tell me my score.

19 Q They just let you shoot in the dark and -- and not know
20 what's going on?

21 MR. ESTES: Objection to form.

22 A I -- I don't know. As far as I can recollect, it's not
23 like a classroom setting where they post a grade.

24 Q (By Ms. Kays) Okay. In 1999, when you indicated that
25 someone else was hired instead of you by the Bainbridge

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1 where a possible subject is, as well, right? I mean, are

2 you -- when you fall back, are you losing sight where

3 Mr. Ostling is?

4 **A Yes.**

5 **Q Where Doug is?**

6 **A Yes.**

7 **Q You did?**

8 **A Yes.**

9 **Q When you hear the three shots, what are you seeing?**

10 **A I'm looking up at the ceiling.**

11 **Q Did you see where those shots or if any of those shots**
12 **struck Doug Ostling?**

13 MR. ESTES: Objection. Foundation.

14 **A I don't know at that point if the shots had struck**
15 **Mr. Ostling.**

16 **Q (By Ms. Kays) What's the next point where you're**
17 **actually looking in the direction of Doug Ostling, and**
18 **what do you see?**

19 **A After I draw my handgun, I bring it back up to where Doug**
20 **was at with the ax, and I saw the door closed.**

21 **Q And is this -- when you're up and you made your handgun**
22 **holding gesture there, is the door already shut by the**
23 **time you're back up? In other words, are you seeing the**
24 **door open or shut when you look back at the doorway?**

25 **A Well, I was never up, but when I drew my handgun and**

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1 is something that I'm assuming that you refer to from
2 time to time?

3 **A From time to time, yes.**

4 **Q And with respect to dealing with mentally ill persons,**
5 **what's your understanding of -- of the General Orders**
6 **Manual on that?**

7 **A I am actually not familiar with -- with that section.**

8 **Q So you're not familiar with the basic principles and**
9 **concepts that are set forth in there to -- as -- as to**
10 **how to deal with mentally ill persons?**

11 MR. ESTES: Objection to the form.

12 If you have a specific policy provision, I guess you
13 could show it to him.

14 **Q (By Ms. Kays) Go ahead and answer.**

15 **A I am not.**

16 Q And is there any particular reason why you're not
17 familiar with that section of the Bainbridge Island
18 Police Department manual?

19 **A It's, for lack of better terms, a large manual and I'm**
20 **not -- I don't have everything memorized.**

21 Q What's your understanding of how you should, as an
22 officer, respond to mentally ill persons?

23 MR. ESTES: Objection to form. Lack
24 of foundation. Calls for speculation.

25 Q (By Ms. Kays) Go ahead.



1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON
3 AT TACOMA

4
5 WILLIAM OSTLING, individually)
6 and as Personal Representative)
7 of the Estate of DOUGLAS)
8 OSTLING, deceased; JOYCE)
9 OSTLING; and TAMARA OSTLING,) 3:11-cv-05219
10)
11 Plaintiff(s),)
12)
13 vs.)
14)
15 CITY OF BAINBRIDGE ISLAND, a)
16 political subdivision of the)
17 State of Washington; JON)
18 FEHLMAN; and JEFF BENKERT;)
19)
20 Defendant(s).)

21
22 DEPOSITION UPON ORAL EXAMINATION OF
23 ROBERT O. CUMMINS, M.D.
24

25 10:07 A.M.

JANUARY 24, 2012

800 FIFTH AVENUE, SUITE 4141

SEATTLE, WASHINGTON

REPORTED BY: PATSY D. JACOY, CCR 2348

A P P E A R A N C E S

FOR THE PLAINTIFFS:

NATHAN P. ROBERTS
JULIE A. KAYS
Connelly Law Offices
2301 N. 30th Street
Tacoma, WA 98403
253.593.5100
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jkays@connelly-law.com

FOR THE DEFENDANTS:

STEWART A. ESTES
Keating, Bucklin & McCormack, Inc., P.S.
800 Fifth Avenue, Suite 4141
Seattle, WA 98104-3175
206.623.8861
sestes@kbmlawyers.com

ALSO PRESENT: NONE

1 right up here in the common femoral artery, there's the
2 branch of the superficial and the profundus or the
3 deep, and it kind of runs down. So I don't think the
4 tract of the bullet hit the profundus, I think the main
5 artery is the superficial femoral that was hit. And of
6 course it has branches, I mean there's this other --
7 there's the more detailed branching of the different
8 arteries I think.

9 Q. Exhibit 3, would that be more helpful?

10 A. I don't think so.

11 Q. Maybe a combination of them?

12 A. Yeah, a combination. There's a lot of the
13 sort of secondary and tertiary branches of the three
14 that I've mentioned that are listed here.

15 Q. And again, on Exhibit 3, could you continue
16 just circling whichever branches you believe were
17 involved.

18 A. (Witness complying.)

19 It's interesting, that this femoral artery
20 here is not distinguished, it's -- it's not
21 distinguished from whether it's the deep or the
22 superficial. This is the superficial, the one I
23 mentioned as being injured.

24 Q. Okay.

25 MR. ROBERTS: That's Exhibit 3 you were

EXAMINATION

BY MR. ROBERTS:

Q. I want to ask just one follow-up question for the sake of clarity.

Dr. Cummins, do you have an opinion on a more probable than not basis as to whether Doug Ostling would have survived and would have been in good health in the long term if he had been given access to basic EMS services within 25 minutes of his gunshot wounds?

A. I think so.

MR. ROBERTS: Okay. Thank you, that's all I have.

MR. ESTES: I'll order.

MR. ROBERTS: Do you want to read, Doctor?

THE WITNESS: Yeah.

MR. ROBERTS: And we'll reserve signature then.

(Deposition Exhibit 1 was marked for identification.)

(Deposition concluded at 12:05 p.m.)

(Signature was reserved.)



BAINBRIDGE ISLAND POLICE GENERAL ORDERS MANUAL

CHAPTER 11

USE OF FORCE

11.010 USE OF FORCE – LIMITATIONS

Officers shall use only the amount of force necessary to effect the lawful purpose intended. The use of force must be based on the level of resistance offered or threatened.

Whether on duty or off duty, all Department rules and regulations shall be followed concerning the use of force under the color of office.

Departmental personnel are authorized to carry and use authorized weapons in the performance of their official duties, in accordance with the Revised Code of Washington 9A.16.020 and 9A.16.040 and this manual.

11.020 NON-DEADLY FORCE

Non-deadly force lies between mere presence and deadly force. It shall only be used to effect the lawful purpose intended.

- A. Officers shall use only the controlling techniques they have been taught in training and in the manner intended. This includes the use of impact, control, less lethal and capture devices, plus chemical agents.
1. Impact weapons such as batons and ASP batons used on duty must be Department authorized.
 2. Flashlights may only be used in a defensive manner.
 3. Less lethal devices may only be used after Department authorization and approved training.
 4. Chemical agents, such as Oleoresin Capsicum, used on duty must be approved and issued by the Department. Chemical agents may be used to protect officers and citizens and to overcome resistance. Officers shall complete department approved training prior to use.
 5. The M26 & X26 Tasers are the only Department approved electronic control device. Officers must successfully complete Department authorized training and qualifications prior to issuance or use. Refresher training and qualifications must be passed annually.

11.030 RENDERING AID AFTER USE OF FORCE

After the use of any restraint technique or weapon, officers must determine any need for medical treatment and shall render or summon any aid needed. After EVERY Taser application where the darts have penetrated the skin aid will be summoned to remove the probes. Expended Taser darts will be handled as a biohazard and disposed of properly. Photographs shall be taken of all use of force applications, preferably on site.

11.040 DOCUMENTING USE OF FORCE

The on-duty supervisor shall immediately be notified whenever any Officer discharges a firearm for other than training purposes, takes an action that results in or is alleged to have resulted in injury or death of another person, or applies force through the use of lethal or less-lethal weapons.

The use of physical force shall be documented by the utilizing officer by including this information within the narrative of their incident/investigation report. The on-duty supervisor will review the report for



BAINBRIDGE ISLAND FIRE DEPARTMENT - MEDICAL INCIDENT REPORT

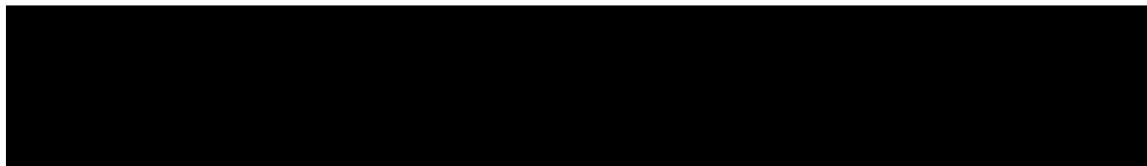
INCIDENT LOCATION 7700 Spring ridge		FIRE 22		DISPATCHED ALS <input type="checkbox"/> AS <input type="checkbox"/> BLS <input checked="" type="checkbox"/>		INCIDENT # 2107		TODAY'S DATE 10-26-10	
PATIENT'S LAST NAME Ostling		FIRST Douglas		AGE -		BIRTH DATE -		SEX M	
HOME STREET ADDRESS		CITY		STATE		ZIP CODE		OFFICE	
SOCIAL SEC #		PATIENT'S TELEPHONE #		CONTACT PERSON		NAME		RELATIONSHIP	
MEDICATIONS									
ALLERGIES **									
MEDICAL HISTORY				PHYSICIAN / MEDICAL CONTROL CONTACTED				TIME	
<p>S) Dispatched @ 2101 to stage for BIPD, "shots fired with injuries", BIPD staged on roadway, while staging, PD st shots were fired and suspected has barricaded in upstairs, waiting for SWAT, FD advised to come into the scene @ 2219</p>									
<p>O) pt found just behind door of apt @ top of skinny staircase pt sitting on the floor leaning against the wall/boxes, slumped to one side, large pool of blood noted under pt, obvious wound noted to @ thigh, blood stained pants around wound, & other obvious trauma noted pt had razor cuts in his shirt, pt unconc/unresponsive, & pulse, & respirations, skin pale, cyanotic lips EKG - asystole.</p>									
<p>A) DOA</p>									
<p>P) PE, EKG, minimal intervention due to apparent DOA time of death noted @ 2224, BIPD #73 only FD into the apt, all other FD stood by in garage or roadway</p>									
TRANSPORTED TO /		MECHANISM GS		TYPE 502		NARRATIVE COMPLETED BY (SIGNATURE) D. Bailey		CERTIFICATION PM	
TIME 2224		Patient Position E		Blood Pressure / / / / / / / / / / / / / / / /		Pulse Rate /		Heart Rate (ECG) /	
Rhythm (ECG) Asyst		Respirations /		Mental Status (GCS) 3		Pulse Oximeter			
<p>PROCEDURES/SKILLS:</p> <p><input checked="" type="checkbox"/> EXAM <input type="checkbox"/> BVM <input checked="" type="checkbox"/> ECG MONITOR <input type="checkbox"/> WOUND CARE <input type="checkbox"/> IV <input type="checkbox"/> SITE <input type="checkbox"/> FLUID TYPE <input type="checkbox"/> AMT <input type="checkbox"/> cc</p> <p><input type="checkbox"/> OXYGEN <input type="checkbox"/> SPLINT <input type="checkbox"/> 12 LEAD <input type="checkbox"/> BB/C-COLLAR <input type="checkbox"/> IV <input type="checkbox"/> SITE <input type="checkbox"/> FLUID TYPE <input type="checkbox"/> AMT <input type="checkbox"/> cc</p> <p><input type="checkbox"/> ORAL AIRWAY <input type="checkbox"/> C.P.R. <input type="checkbox"/> CARDIOVERSION <input type="checkbox"/> EXTRICATION (TIME) <input type="checkbox"/> ETT <input type="checkbox"/> mm BY # <input type="checkbox"/> CONFIRMED W/</p>									
FIRST UNIT ON SCENE M21		ADDITIONAL UNITS A21		C21		DC21		PERSONNEL IN POW 44, 249	
PERSONNEL 73, 83		PERSONNEL 80, 80, 128		12		2103		PERSONNEL STANDING BY	
TIMES OF TRANSPORTING UNIT (Taken from CAD) 2101		En Route 2102		On Scene 2108		Depart Scene		At Destination 2241	
MEDIC UNIT USED ON THIS RUN? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		CALL TYPE (Per Protocol) ALS <input checked="" type="checkbox"/> BLS <input type="checkbox"/>		PATIENT'S FINAL DISPOSITION ALS <input type="checkbox"/> BLS <input type="checkbox"/> NO TX <input checked="" type="checkbox"/>		BACKUP PM USED ON THIS RUN? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		POLICE CASE #	
(USE FOR OFF-ISLAND FIRE DEPARTMENT TRANSPORT ONLY)		DU PM available? YES <input type="checkbox"/> NO <input type="checkbox"/> PM #		FORM COMPLETED BY (PRINT) D. Bailey		ROSTER # 73		OUTY OFFICER AB	

CURRICULUM VITAE

Richard Oliver Cummins, M.D., M.P.H., M.Sc.
Emergency Medical Services



PERSONAL DATA



EDUCATION

University of North Carolina, Chapel Hill, North Carolina, A.B., 1964-1968.
Case Western Reserve University School of Medicine, Cleveland, Ohio, M.D., 1968-1972.
University of Washington, Seattle, Washington, School of Public Health and Community Medicine,
M.P.H. in Health Services Research, 1977-1979. (Robert Wood Johnson Clinical Scholar).
London School of Hygiene and Tropical Medicine, London, England, M.Sc. in Epidemiology, 1979-1981
(Milbank Memorial Fund Scholar).

POSTGRADUATE TRAINING

University of Virginia Internship, Medicine and Pediatrics, 1972-1973.
National Health Service Corps; General Practice, Louisa, Virginia, 1973-1975.
University of Virginia Hospital; Department of Medicine, Charlottesville, Virginia; Internal Medicine
Residency, 1975-1977

FACULTY POSITIONS HELD

Professor, Department of Medicine, University of Washington; July 1, 1992 to present
Associate Professor, Department of Medicine, University of Washington, July 1, 1985 to June 30, 1992.
Assistant Professor, Department of Medicine, University of Washington, 1981-1985.
Instructor, Department of Clinical Epidemiology and General Practice, Royal Free Hospital School of
Medicine, London, England, 1980-1981).
Instructor (on leave), Department of Medicine, University of Washington, 1979-1981. Acting Instructor,
Department of Medicine, University of Washington, 1977-1979.

HOSPITAL POSITIONS HELD

National Health Service Corps; Louisa, Virginia, 1973-1975.
Attending Physician, Primary Care Center; Harborview Medical Center, Univ of Washington, 1981-1982.
Attending Physician, Emergency Medicine Service; University Hospital, University of Washington, 1982-
present.

HONORS and AWARDS

John Motley Morehead Scholarship, University of North Carolina, 1964.
Phi Beta Kappa, University of North Carolina, 1968.
Alpha Omega Alpha, Case Western Reserve University, 1972.

James Kindred Teaching Award, University of Virginia, 1977.
 Robert Wood Johnson Clinical Scholar, University of Washington
 Milbank Memorial Fund Scholar, University of Washington, 1979.
 American Heart Association, Distinguished Service Award, Washington State ACLS Affiliate Faculty, Oct, 1990.
 American Heart Association, Distinguished National Service Award, (ACLS National Chair); May 17, 1994
 American Heart Association, Volunteer of the Year Award, Washington State AHA Affiliate, July, 21, 1994
 American Heart Association, "Time, Feeling and Focus Award" National Volunteer Award, November 18, 1994
 American Heart Association: "*National Award of Meritorious Achievement.*" (one of four given Nationally); June 21, 1995
 Citizen CPR Foundation: *National Hans Dahll Award for Outstanding Contributions to the Field of ECC and CPR*; September, 2002
Emergency Medicine Faculty: Clinical Teacher of the Year Award-2004. From the graduating residents in Emergency Medicine; UW/Madigan Army Medical Center EM Residency Program

BOARD CERTIFICATION

Diplomate of the American Board of Internal Medicine, June, 1977 (#60678)
 Diplomate of the American Board of Emergency Medicine (ABEM) ; July 15, 1996 to December, 2006 (#930960).
 ABEM 10-year recertification: December, 2006 to December, 2016.

LICENSURE

Current: State of Washington, 1977; Number 252-09.
 State of Virginia, 1973; Number 023835 (inactive).
 United Kingdom, 1980 (inactive)

PROFESSIONAL ORGANIZATIONS

Active:

- Society for Academic Emergency Medicine
- National Association Emergency Medical Services Physicians
- American College of Emergency Physicians
- American Medical Association (Washington State)
- American Board of Internal Medicine (inactive)

Past:

- American College of Physicians
- American Heart Association
- American Medical Association
- American Public Health Association
- Society for Medical Decision Making

EDITORIAL RESPONSIBILITIES (Past)

- Associate Editor, Currents in Emergency Cardiac Care, American Heart Association, Dallas, TX; 1988-1999
- Associate Editor, Journal of General Internal Medicine; 1994-99
- Editorial Board, American Journal of Emergency Medicine; 1986-92
- Editorial Board, Prehospital and Disaster Medicine; 1986-90
- Editorial Board, Annals of Emergency Medicine; 1988-1993
- Advisory Panel, Journal American Medical Association (Section on Concepts in Emergency and Critical Care); 1985-90
- Advisory Panel, Journal American Medical Association (Panel on Diagnostic & Therapeutic Technology Assessment); 1985-90

JOURNAL PEER-REVIEW SERVICE (Past)

- American Heart Journal
- American Journal of Emergency Medicine
- Annals of Emergency Medicine
- Canadian Medical Association Journal
- Chest
- Circulation
- Journal of the American Medical Association
- Journal of Chronic Diseases
- Journal of Emergency Medical Services
- Journal of Prehospital and Disaster Medicine
- Journal of General Internal Medicine
- New England Journal of Medicine
- Medical Decision-Making
- Resuscitation
- European Journal of Emergency Medicine
- Academic Emergency Medicine

SPECIAL NATIONAL AND INTERNATIONAL RESPONSIBILITIES (PAST)

- Senior Science Editor; American Heart Association; Emergency Cardiovascular Care; Appointment: Dec, 1997
- Chairman, National Emergency Cardiac Care Committee; American Heart Association (Term runs 1996 to 1999)
- Member, American Heart Association National Oversight Committee, Task Force on Five-Year Business Plan
- Member, (1994-present) American Heart Association National Task Force on "Safety and Efficacy of Automated External Defibrillators"
- Vice-chairman, National Emergency Cardiac Care Committee; American Heart Association; Dallas, Texas (1995-6)
- Chairman, (1991-94) National Advanced Cardiac Life Support Subcommittee, American Heart Association.
- Liaison, (1992) American Heart Association to the European Resuscitation Council
- Co-Chairman (1992) International Liaison Committee on Resuscitation Guidelines in Emergency Cardiac Care (American Heart Association, European Resuscitation Council, Australian Resuscitation Council, Resuscitation Councils of Southern Africa)
- State Co-chairman (1992-93) Washington State American Heart Association, ECC Committee
- Planning Committee. American Heart Association National Fact-finding exercise. Dallas, Texas; Sept 26-30, 1992
- Planning Committee. American Heart Association National Guidelines Conference. Dallas, Texas; February 22-26, 1992.
- Co-Chairperson, Emergency Cardiac Care '92 Update Conference; Seattle, Washington, April 9-11, 1992.
- Member, National Advanced Cardiac Life Support Subcommittee, American Heart Association (1987-present)
- Member, National Emergency Cardiac Care Committee, American Heart Association
- Member, Board of Directors, Citizen's CPR Foundation.
- Co-Chairperson, Emergency Cardiac Care Update National Conference; Seattle, Washington, 1992.
- Co-Chairman, Utstein-II Conference on Recommended Guidelines for Uniform Reporting of Cardiac Arrest Outcome Data, December 9-11, 1991; Bagshot, Surrey, England.
- Chairman, Task Force on Automated Defibrillation Training and Education, Advanced Cardiac Life Support Subcommittee, American Heart Association

- Member, Conference Planning Committee, 1992 National Conference on Guidelines for Emergency Cardiac Care and Cardiopulmonary Resuscitation, American Heart Association; Dallas, Texas.
- Chair, Committee on Emergency Medical Services Systems, 1992 National Conference on Guidelines for Emergency Cardiac Care and Cardiopulmonary Resuscitation, American Heart Association;
- Member, American Heart Association Council on Cardio-Pulmonary and Critical Care Medicine
- Scientific Advisor, First Vienna Congress on Sudden Cardiac Death; March 24-26, 1993
- Symposium Organizer, "Chain of Survival in Europe and America; First Vienna Congress on Sudden Cardiac Death; March 24, 1993
- Scientific Advisor, 6th World Congress on Disaster and Emergency Medicine; Hong Kong; 1989.
- Scientific Advisor, 7th World Congress on Disaster and Emergency Medicine; Montreal, 1991
- Symposium Organizer, Cardiology Session, 6th World Congress on Disaster and Emergency Medicine; HongKong; 1989.
- Symposium Organizer, Cardiology Session, 7th World Congress on Disaster and Emergency Medicine; Montreal, 1991
- Member, National Program Committee, Society for Academic Emergency Medicine; 1989 Annual Meeting; 1990 Annual Meeting.
- Member, Defibrillation Standards Committee, American Association for Medical Instrumentation.
- Member, Subcommittee on Standards for Automated External Defibrillators, American Association for Medical Instrumentation.
- Moderator, Scientific Papers Session, Society for Academic Emergency Medicine, 1989 Annual Meeting, 1990 Annual Meeting.
- Member, Center Devices and Radiologic Health National Committee on Defibrillator Use Problems (Chair, Subcommittee on Manuscript/Report Preparation).

SPECIAL WASHINGTON STATE RESPONSIBILITIES (PAST)

- State AHA ECC Committee member 1994- present
- EMS Task Force on EMS-No CPR Protocols 1992-1995
- State AHA ECC Committee Co-Chairman 1994 to 1995
- State AHA ACLS Committee Member
- Member, State AHA Board of Trustees
- Member, State AHA Research Committee

UNIVERSITY, DEPARTMENTAL AND MEDICAL CENTER RESPONSIBILITIES (PAST)

- Acting Director, UWMC Affiliated Residency Program in Emergency Medicine, University of Washington and Madigan Army Medical Center (
- Associate Director, Emergency Medical Services; University of Washington Medical Center.
- Senator, Department of Medicine to the Faculty Senate of the University of Washington (1989-1992)
- Member, University of Washington Medical Center, Quality Assurance Committee.
- Chairman, University of Washington Medical Center, Quality Assurance Committee. (1991-present)
- Member, Standing Committee: Introduction to Scientific Method in Science, School of Medicine.
- Member, Advisory Committee: Epidemiology Course for Medical Students
- Member, Medical Thesis Committee, School of Medicine.
- Member, Patient Care Information Subcommittee, Medical Care Information Systems Project, University of Washington Medical Center.
- Member, Quality Planning Council, University of Washington Medical Center
- Member, Physicians Focus Group on Quality Improvement, UWMC.

RESEARCH FUNDING (PAST)

1. Principal Investigator: *"The early use of transcutaneous pacing by emergency Medical technicians."* Grant #HSO-5740-02 from the National Center for Health Services Research, Washington , D.C.

2. Principal Investigator: *"A controlled clinical trial of automated external defibrillators by Emergency Medical Technicians"*. Grant #HSO-5174 from the National Center for Health Services Research, Washington, D.C.
3. Co-Principal Investigator: *"The use of automatic defibrillators by the companions and family members of high risk cardiac patients."* Grant #HSO-4894, from the National Center for Health Services Research, Washington, DC.
4. Co-Principal Investigator: *"The development of a Center for the Evaluation of Emergency Medical Services"*, series of grants from the Asmund S. Laerdal Foundation (one for 3 years, and one for 5 years.)
5. Co-Principal Investigator: *"Evaluation of a semi-automatic external defibrillators used by community responders, and family member of high risk patients"*. Grant from the Physio-Control Corporation, Redmond, Washington.
6. Co-principal Investigator: *"Evaluation of a solid state medical control module in a semi-automated external defibrillator"*. Grant from the Asmund S. Laerdal Foundation, Stavanger, Norway
7. Laerdal Traveling Scholar Fellowship: awarded 1991 from the Laerdal Foundation for Acute Medicine. Support for Comparative evaluation of Emergency Medical Services in Europe.
8. Principal investigator: *"The use of automated external defibrillators for the treatment of in-hospital cardiac arrest."* Grant support from the Physio-Control Corporation.
9. Principal Investigator: *"The ORCA Project: Outcome Research in Cardiac Arrest."* A multicenter, multidisciplinary project submitted to the Agency of Health Care and Policy Research. (Submitted June 1, 1991 for funding to begin April 1992). (Approved, Not funded) Resubmitted June 1, 1992 (Approved Not funded)
10. Principal Investigator: "A population-based registry of survivors of out-of-hospital cardiac arrest: interventions, quality of life and long-term survival" National Center, American Heart Association; Submitted July 1, 1992 for funding to begin July, 1993 [Not funded]
11. Co-Principal investigator: "Women and Sudden Cardiac Death: epidemiology and survival". National Heart Lung and Blood Institute. Submitted December, 1992 for funding to begin July 1, 1993. [Not funded]
12. Principal investigator: "The Quality of Survival following Out-of-Hospital Cardiac Arrest." Seattle Medic One Foundation. Approved: September 23, 1993 (\$40,000 for two years).
13. Principal investigator: "Survival from Out-of-Hospital cardiac arrest: relationship between interventions and activity level and neuropsychological function in survivors." Submitted July 1, 1993 to the National Grant-in-Aid program of the American Heart Association. (Approved: May, 1994; \$150,000 over three years)
14. Co-Principal investigator: "Amiodarone used in refractory cardiac arrest due to VF in the Prehospital setting." Seattle Medic One Foundation. Approved: October 4, 1993; \$25,000 per year for three years)
15. Co-Principal Investigator: Public Access Defibrillation Clinical Trial. National Heart Lung and Blood Institute. 1999-2004.

CURRICULUM VITAE: RICHARD O. CUMMINS.



BIBLIOGRAPHY

PEER-REVIEW JOURNALS

1978

1. Cummins RO, Suratt PM, Horwitz. Disseminated strongyloides stercoralis infection--association with ectopic ACTH syndrome and depressed cell-mediated immunity. Archives of Internal Medicine 1978;138:1005-1006.

1980-1989

2. Cummins RO, Smith RW, Inui TS. Communication failure in primary care: failure of consultants to provide follow-up information. JAMA 1980;243:1650-1652.
3. Cummins RO, LoGerfo JP, Inui TS, Weiss NS. High-yield referral criteria for post-traumatic skill roentgenography: response of physicians and accuracy of criteria. JAMA 1980;244:673-676.
4. Cummins RO. Clinicians' reasons for overuse of skull radiographs. Am J Roent 1980;135:549-552. (This article also appeared in the Am J Neuro Radiol 1980;1:339-342).
5. Cummins RO. Learning to Write. Can books help? J Med Ed 1981;56:128-132.
6. Cummins RO, Jarman B, White PM. Do general practitioners have different "referral thresholds?" Brit Med J 1981;282:1037-1039.
7. Cummins RO, Shaper AG, Walker M, Wales C. Smoking and drinking by middle-aged British males: Effects of social class and town of residence. Brit Med J 1981;283:1497-1502.
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9. Cummins RO, Cook DG, Hume R, Shaper AG. Tranquilizer use in middle-aged British males: Association with smoking, drinking, and unemployment. J Royal Coll Gen Pract 1982;32:745-752.
10. Cummins RO. Recent trends in salt consumption and stroke mortality: Any help for the salt-hypertension debate? J Epidemiology and Comm Med 1982;32:745-752.
11. Cummins RO, Eisenberg MS, Bergner L, Murray JA. The sensitivity, accuracy and effectiveness of an automatic external defibrillator: Report of a field evaluation by Paramedics. Lancet 1984;ii:318-320.
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13. Cummins RO, Knowles P. Emergency Department advice telephone calls: Who calls and why? J Emergency Nursing 1984;10:283-286.
14. Eisenberg MS, Hallstrom AP, Carter WB, Cummins RO, Bergner L, Pierce J: Emergency CPR via telephone. Am J of Public Health 1985;75:47-50.

15. Cummins RO, Eisenberg MS. Prehospital Cardiopulmonary Resuscitation: Is it effective? JAMA 1985;253:2408-2412.
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17. Cummins RO, Eisenberg MS, Moore JE, Hearne TR, Andresen E, et al. Automatic External Defibrillators: Clinical, training, psychological, and public health issues. Ann Emerg Med 1985;14:755-7690.
18. Cummins RO, Eisenberg MS, Hallstrom AP, Hearne TR, Graves JR. What is a "save"? Outcome measures in clinical evaluations of automatic external defibrillators. Am Heart J 1985;110:1133-1138.
19. Eisenberg MS, Bergner L, Hallstrom AP, Cummins RO. Sudden cardiac death. Scientific American 1986;254:37-43.
20. Eisenberg MS, Cummins RO. Defibrillation performed by the emergency medical technician. Circulation 1986;74(suppl IV):IV-9-12.
21. Eisenberg MS, Cummins RO, Litwin PE, Hallstrom AP. Out-of-hospital cardiac arrest: significance of symptoms in patients collapsing before and after arrival of paramedics. Am J Emerg Med 1986;4:116-120.
22. Cummins RO, Eisenberg MS. Automatic external defibrillators: clinical issues for cardiology. Circulation 1986;73:381-385. (This article also appeared in Current Views from Circulation: editorials and perspectives, Sobel BE, ed. Monograph #127; Dallas, American Heart Association, 1987.)
23. Eisenberg MS, Carter W, Hallstrom AP, Cummins RO, Litwin PE, Hearne TR. Identification of Cardiac Arrest by Emergency Dispatchers. Am J of Emerg Med 986;4:299-301.
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26. Moore JE, Eisenberg MS, Cummins RO, Hallstrom AP, Litwin PE, Carter W. Lay person use of automatic external defibrillation. Ann Emerg Med 1987;16:669-672.
27. Cummins RO, Eisenberg MS, Litwin PE, Graves JR, Hearne TR, Hallstrom AP. Automatic external defibrillators used by emergency medical technicians: a controlled clinical trial. JAMA 1987;257:1605-1610.
28. Cummins RO. EMT-Defibrillation: National Guidelines for Implementation. Am J Emerg Med 1987;5(May):254-257.

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30. Cummins RO, Stults KR, Haggard B, Kerber RE, Schaeffer S, Brown DD. A new rhythm library for testing automatic external defibrillators: performance of three devices. *J Am Coll Cardiol* 1988;11:597-602.
31. Cummins RO, Chapman PM, Chamberlain DC, Schubach JA, Litwin PE. In-flight deaths during air travel: how big is the problem? *JAMA* 1988;259:1983-1988.
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38. Cummins RO, Schubach JA. Frequency and types of medical emergencies among commercial air travelers. *JAMA* 1989;261:1295-1299.

1990-1999

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41. Cummins RO, Chesemore KD, White RD and the Defibrillator Working Group. Defibrillator Failures: causes of problems and recommendations for improvement. *JAMA* 1990(Aug 22/29);264:1019-1025.
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as Personal Representative of the)	
Estate of DOUGLAS OSTLING,)	
deceased; JOYCE OSTLING; and)	
TAMARA OSTLING,)	
)	
Plaintiffs,)	
)	
vs.)	No. 3:11-cv-05219
)	
CITY OF BAINBRIDGE ISLAND, a)	
political subdivision of the State)	
of Washington; JON FEHLMAN; and)	
JEFF BENKERT,)	
)	
Defendants.)	

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23 EXAMINATION INDEX

24	EXAMINATION BY:	PAGE NO.
25	MR. ROBERTS	3

26 EXHIBIT INDEX

27	EXHIBIT NO.	DESCRIPTION	PAGE NO.
28	(No exhibits marked for identification.)		

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1 Q How does the role of a lieutenant differ from the role
2 of a regular patrol officer?

3 A As lieutenant, I'm responsible for the day-to-day
4 processing of paperwork, reports, reviewing officers'
5 activities on the street, making sure that the actions
6 they take on the street are consistent with policy and
7 procedure. They come to me for questions; I answer
8 their questions. I'm responsible for certain pieces
9 of the budget, overtime, equipment purchases. Those
10 kind of things.

11 Q Have you received crisis intervention team training?

12 A Yes, I have.

13 Q Where did you receive that training?

14 A I received that training at Poulsbo.

15 Q The Poulsbo Department had it?

16 A Yes. They did it for -- they did it for the region.

17 Q Do you know the names of any other officers from
18 Bainbridge Island that may have attended that training?

19 A I couldn't do it accurately, so I'm not going to
20 guess.

21 Q Do you know whether or not other officers besides
22 yourself attended?

23 A Yes, I do.

24 Q Can you tell me how many approximately?

25 A I want to say four to six.

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1 Q And what was the purpose of sending only four to six of
2 the Bainbridge Island officers to that training?

3 A It wasn't that we only sent four. It was that budget
4 and scheduling only allowed four to be able to attend
5 for the full cycle. It was a training that you can't
6 just attend part of. You have to attend the entire
7 cycle.

8 Q Is it your understanding that those four to six
9 officers, including yourself, who received that CIT
10 training would then become resources for the other
11 officers that did not get it?

12 A Correct.

13 Q And what did the CIT training consist of?

14 A It consisted of people in the mental health profession
15 talking with us about the concept of dealing with
16 people in personal crisis, mental illness as part of
17 our job. It talked about how to involve them in the
18 process as early as possible. It talked about how to
19 gain cooperation from those individuals. It talked
20 about how to make the decision for ourselves whether
21 or not what we were dealing with was an emotionally
22 disturbed person. That was -- that was the core of
23 what the training was all about.

24 Q So it helps you identify people that have mental
25 illness, right, and then teaches you how to deploy the

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1 appropriate resources to respond to them; is that fair?

2 **A Yes.**

3 Q And it also teaches you to some extent how to deal with
4 people with mental illness, right?

5 **A I don't like the word "deal."**

6 Q What word do you like, sir?

7 **A I would say "understand."**

8 Q And do you think it's important for police officers to
9 understand that people that they're dealing with that
10 have mental illness -- you don't like that term so I'm
11 going to strike my question and phrase it more
12 appropriately.

13 Do you think it's important for police officers to
14 have an understanding of mental illness in general?

15 **A Yes.**

16 **Q And that's because a fair number of the people you**
17 **interact with are going to be mentally ill, right?**

18 **A Yes.**

19 Q And can you give me some examples of the way in which
20 your methods and tactics might differ when a person
21 you're dealing with or interacting with is mentally
22 ill?

23 **A It's so situational based that to just tell you this**
24 **is the process, I mean, that was the first thing that**
25 **they explained to us, is there's no one process to**

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1 deal with people that are mentally ill. You have to
2 deal with the situation realizing that they're not
3 seeing it through the eyes of a person who is thinking
4 rationally or has the ability to conceive rationally
5 what you're asking them to do.

6 So there are -- there are so many variables that
7 to sit here and answer your question with a definitive
8 is impossible.

9 Q Are you trained that people who are suffering from
10 mental illness may not react in the same somewhat
11 predictable fashion that others without mental illness
12 might?

13 A I can say yes to that.

14 Q And are you trained that people with mental illness may
15 be potentially more violent than people without it?

16 A No.

17 Q You mentioned that the mental health professionals that
18 help put on the course wanted to teach the officers in
19 the CIT training how to get the professionals involved
20 as soon as possible in the process.

21 Do you understand if you want to consult with a
22 mental health professional while you're out on patrol,
23 for example, how to do that?

24 A Uh-huh. Yes.

25 Q How? How do you do that?

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1 tactics that you're supposed to employ?

2 **A In fact, at the CIT training, the answer was no. You**
3 **treat a threat as a threat.**

4 Q Do you think an officer should be particularly careful
5 not to agitate or exacerbate a situation involving a
6 mentally ill person?

7 **A Once the officer knows that's what he's dealing with,**
8 **yes.**

9 Q So once the officer realizes that the person is
10 potentially ill, they should take some extra care not
11 to aggravate the situation or agitate the person,
12 right?

13 **A Yes.**

14 Q What are the circumstances under which you would want
15 to confront a mentally ill person who is acting
16 aggressively or with hostility towards police?

17 **A How many scenarios do you want?**

18 Q Just the first one that comes to mind. How about that.

19 **A Okay. Ask the question again, please.**

20 Q What are the circumstances under which you would want
21 to confront a mentally ill person who is behaving with
22 hostility towards the police?

23 **A If it's me and that person -- and we're in an open**
24 **environment and it's just me and that person and he's**
25 **being openly hostile towards me, I'm going to want to**

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1 verbally engage immediately to try to de-escalate

2 Q You just mentioned de-escalation. What is that?

3 A That's a process under which through conversation you
4 reach a mutual point where you and the other person
5 can at least talk rationally about something.

6 Q And de-escalation is obviously the opposite of
7 escalation, right?

8 A Yes.

9 Q So the purpose of de-escalation is to lower the level
10 of anxiety, lower the level of potential for violence
11 or irrationality, right?

12 A It's the intent.

13 Q The goal, right?

14 A Yes.

15 Q And it's to avoid a physical confrontation if possible;
16 that's one of the goals too, right?

17 A Yes.

18 Q You would never want to engage in an unnecessary
19 physical confrontation with a mentally ill person,
20 right?

21 A I have no idea what you mean by "unnecessary," because
22 I don't engage in unnecessary physical confrontation
23 with anybody.

24 Q So we can agree to that, right? A police officer
25 shouldn't engage in unnecessary physical

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1 confrontations?

2 **A Correct.**

3 Q Because doing so creates an unnecessary risk of harm
4 for the officer and for the citizen?

5 **A Yes.**

6 Q And that's true without regard to whether the person
7 has mental illness, or is it especially true when the
8 person has mental illness?

9 **A That particular piece I believe is important in all**
10 **our encounters.**

11 Q You think it's universal?

12 **A Yes.**

13 Q Do you expect the officers under your supervision to be
14 the familiar with the Bainbridge Island Police
15 Department general orders manual?

16 **A Yes.**

17 Q Does that contain the department's policies, or is
18 there a separate policy manual?

19 **A No, that's -- that's the general policies, the GOM,**
20 **that's what it is.**

21 Q So those tell the officers what the expectations are
22 for them in different roles and also guide their -- the
23 way that they interact with citizens in different
24 situations, right?

25 **A Expectations and guidance, yes.**

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1 **A** It's Berg and Portrey. I don't remember -- I'm sorry
2 it's Berg and Benkert. I don't remember if Mr.
3 Portrey was actually on my crew or somebody else's
4 crew.

5 **Q** Now, as you're home sick this evening, are you
6 monitoring the scanner or the frequency?

7 **A** No.

8 **Q** Everything is turned off. How were you notified there
9 had been an officer-involved shooting?

10 **A** I received a phone call from dispatch.

11 **Q** On your cell phone?

12 **A** No. On my home phone I believe.

13 **Q** If there were an issue in the field with your crew or
14 with other officers, shy of an officer-involved
15 shooting, if someone wanted to ask you a question as
16 their supervisor, would they feel comfortable calling
17 you at home, to your understanding?

18 **A** Yes.

19 **Q** Have you been called at home for purposes of providing
20 advice on how to deal with a particular situation
21 before?

22 **A** Yes.

23 **Q** Can you give me an example of what types of things
24 might lead to a call at home?

25 **A** "I'm at a three-car collision. I've got a serious

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1 injury accident. I'm trying to decide about using
2 county or state patrol to help us with the collision
3 investigation." That would be an example.

4 Q And you don't mind getting those types of calls at
5 home?

6 A No.

7 Q It's part of the job?

8 A Yes.

9 Q As one of the officers with the CIT training, would you
10 expect to receive calls at home when people had
11 questions about how to deal with somebody with mental
12 illness?

13 A No.

14 Q Why not?

15 A It's a routine we deal with -- as you said yourself
16 earlier, we deal with these folks on a regular basis,
17 so just because that's who they're dealing with, I
18 wouldn't expect to get a call, no.

19 Q If someone had a question about how to deal with
20 somebody with mental illness and they did call you at
21 home, would that upset you?

22 A No.

23 Q Wouldn't be bothered by it?

24 A No.

25 Q Had anyone called you about the response to the Doug

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1 Ostling residence prior to the call from dispatch about

2 the officer-involved shooting?

3 A No.

4 Q So you didn't become aware that officers were dealing

5 with Doug Ostling until after the shots had been fired?

6 A Correct.

7 Q And if I understand correctly, once you received the

8 call, you got on the radio and let people know that you

9 would be coming to the scene, correct?

10 A Yes.

11 Q And at some point did you assume control of the scene

12 as the lieutenant?

13 A Yes.

14 Q Did you assume control of the scene via the radio

15 before you arrived there physically?

16 A Yes.

17 Q So you're giving commands to the officers on scene as

18 the lieutenant before you got there, right?

19 A Two commands.

20 Q The two commands were what?

21 A One, don't force the door. The second one, check on

22 SWAT and wait for SWAT.

23 Q So prior to arriving on scene or speaking to officers

24 on scene, you understood that -- well, what did you

25 understand at that time about what had occurred?



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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

AT TACOMA

WILLIAM OSTLING, individually and)	
as Personal Representative of the)	
Estate of DOUGLAS OSTLING,)	
deceased; JOYCE OSTLING; and)	
TAMARA OSTLING,)	
)	
Plaintiffs,)	
)	
vs.)	No. 3:11-cv-05219
)	
CITY OF BAINBRIDGE ISLAND, a)	
political subdivision of the State)	
of Washington; JON FEHLMAN; and)	
JEFF BENKERT,)	
)	
Defendants.)	

VIDEOTAPED DEPOSITION OF JON M. FEHLMAN

January 17, 2012

Seattle, Washington

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Court Reporters & Video

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1 made that determination.

2 Q (By Mr. Connelly) Well, what -- I mean, when
3 you're -- you've trained police officers. When should
4 they make that determination? What criterion should
5 they use?

6 A When they're calling -- to call in a mental health
7 professional, or we'll just say a professional.

8 Q (Nods head.)

9 A If you're in a situation where you're just negotiating
10 back and forth with somebody, not necessarily moving
11 one direction or another, if you're at a point where
12 it's safe enough and you have the opportunity, you can
13 at that point utilize a professional, call a
14 professional.

15 But even so, when I've utilized professional like
16 that, it's been as an advisor to the police officers.
17 It hasn't been in a direct negotiation with a mentally
18 ill person that we got a call on.

19 Q Police officers should have training in dealing with
20 mentally ill people, correct?

21 MR. ESTES: Objection to form;
22 foundation, calls for a legal conclusion.

23 Q (By Mr. Connelly) Go ahead, sir.

24 A Police officers do receive training on dealing with
25 the mentally ill.

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1 Q The question was --

2 A Should?

3 Q -- should have, correct?

4 A Yes.

5 Q All right. And as far as after 1999, you left the
6 Santa Rosa Police Department, correct?

7 A No, sir.

8 Q Did you stay there?

9 A Yes, I was with Santa Ro- -- oh, I'm sorry. Which
10 department did you say?

11 Q Santa Rosa.

12 A No. I was with Santa Rosa until 2008.

13 Q Okay. Let me make sure I understand the history then.
14 It's -- the reason I had used 1999 is I think that's
15 when you said you had gone to Southern Illinois. Did
16 you actually go back to Illinois?

17 A No, sir. I'm -- I'm sorry.

18 Q That was --

19 A Southern Illinois was an extension program.

20 Q I got you.

21 A I went to a local military base. I got my degree
22 there. I was with Santa Rose from 1996, September of
23 1996, until October -- I'm sorry -- October, yes,
24 of -- no, I'm sorry -- November of 2008.

25 Q Okay. And what position did you -- were you in when

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1 they're expected to be familiar with and abide by,
2 correct?

3 **A Yes.**

4 **Q Now, there's a chapter in there, 13.135, about dealing**
5 with the mentally ill, correct?

6 **A We're on Page 5?**

7 **Q Yes.**

8 **A Yes, sir.**

9 **Q And the -- that chapter is used in training, correct?**

10 **A Yes.**

11 **Q And how often does the training occur with regard to**
12 dealing with the mentally ill?

13 **A Department wise, between officers, whenever an officer**
14 will be sent to some specific type of training. But
15 as far as regular training dealing with mentally ill,
16 it does not occur.

17 **Q All right. So there's no training -- regular training**
18 regarding dealing with the mentally ill, but this
19 manual is passed out and officers are supposed to read
20 it, correct?

21 **A Well, yes. In dealing with the mentally ill, it's**
22 when officers -- let's say, for instance, tactical
23 training. They don't necessarily glean out the
24 mentally ill person. But they would just deal -- they
25 would go over contacting and covering for any persons,

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1 **A** 2009.

2 **Q** 2009?

3 **A** Yes, sir.

4 **Q** And then other than that, you prepared for it in
5 connection with this deposition; is that correct?

6 **A** Reviewed it, yes, sir.

7 **Q** Now, the -- since this incident with Douglas Ostling,
8 has there been additional training regarding dealing
9 with members of the citizenry who have a mental
10 illness?

11 **A** Department-wide, no. I believe individual officers --
12 I don't know who off the top of my head -- have been
13 to tactical training that that would have been part
14 of.

15 **Q** So individual officers may have taken some training on
16 their own regarding this issue; is that what you're
17 saying?

18 **A** I wouldn't necessarily on their own. Usually we
19 assign their training. But there might be something
20 they've gone to that would have had a piece of this.
21 And not a -- when I say a piece of this, I don't mean
22 our policy, but just something dealing with either the
23 mentally ill or emotionally disturbed people.

24 **Q** My question to you is specifically has the Bainbridge
25 Island Police Department taken steps to ensure that

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1) its members are trained on mental illness since

2) Douglas Ostling's incident?

3) A Specific training on dealing with the mentally ill,

4) no, not that I know of.

5 Q Now, as far as going to the -- we've talked a little
6 bit back when you were with the Santa Rosa Police
7 Department about some of the steps that an officer
8 takes in dealing with the mentally ill. And I've got
9 a few questions about the provisions in here.

10 First of all, what is excited delirium?

11 A Excited delirium to the -- my understanding is a state
12 induced by could be acute mental illness, emotional --
13 being emotionally disturbed or possibly under the
14 influence of a controlled substance.

15 Q And how should an officer react when he's advised that
16 a subject is in a state of excited delirium?

17 MR. ESTES: Objection; vague, calls
18 for speculation.

19 A The officer should be, if I can say this broadly,
20 prepared for all things. You don't know what you're
21 going to experience or what you're going to see when
22 you're dealing with somebody under these conditions.

23 Q (By Mr. Connelly) Within the Bainbridge Island Police
24 Department, how should an officer's conduct be
25 affected when its -- when that officer is informed

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1 training of the officers overall.

2 Q When was the last time you brought or -- brought
3 somebody in to train regarding dealing with the
4 mentally ill?

5 A I cannot recall bringing somebody in to a training
6 session with the entire department. I don't think
7 we've had that in the three years I've been there.
8 Officers have been to training, but again, I don't
9 recall who or when they would have done it.

10 Q And specifically with regard to Officer Portrey or
11 Benkert, you don't know what training they had for
12 dealing with the mentally ill?

13 A No.

14 Q All right. I want to go -- let's go through your
15 manual. It indicates, "Policy: Dealing with
16 individuals in enforcement and related contexts who
17 are known or suspected to be mentally ill carries the
18 potential for violence, requires an Officer to make
19 difficult judgments about the mental state and intent
20 of the individual, and requires special police skills
21 and abilities to effectively and legally deal with the
22 person so as to avoid unnecessary violence...."

23 What special police skills and abilities are being
24 referred to in your manual?

25 A (Witness reviews document.) Hmm. Don't know, and

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1 Q (By Mr. Connelly) And you ratify their conduct and
2 state that's the way that a Bainbridge Island Police
3 Department police officer should deal with a mentally
4 ill subject?

5 MR. ESTES: Objection to form.

6 Go ahead.

7 A I ratify that this incident, what they were confronted
8 with that night, and what they acted upon and what
9 they dealt with, that their actions, while tragic,
10 were appropriate.

11 Q (By Mr. Connelly) That's not my question. My
12 question -- and I'll move to strike as nonresponsive.

13 This is the way that you expect -- as the police
14 chief of Bainbridge Island, this is the way that you
15 expect a Bainbridge Island Police Department officer
16 to deal with mentally ill subjects?

17 MR. ESTES: Objection to the form of
18 the question.

19 A Yes.

20 Q (By Mr. Connelly) The -- you never required the two
21 officers to provide their statements within 24 hours,
22 correct?

23 MR. ESTES: Objection; asked and
24 answered.

25 A Correct.

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1 **A** And, I'm sorry, are we talking about first calling the
2 fire department or calling the fire department to the
3 house?

4 **Q** How long -- how long was -- did it take until Doug
5 Ostling was assessed to determine whether or not
6 medical assistance was needed?

7 **A** I believe the time that was stated from the officers
8 calling out the shots fired until medical treatment
9 was 70-some minutes, 7-0-some minutes.

10 **Q** Did you have the SWAT team make entry into the
11 apartment to determine whether or not the subject had
12 been injured?

13 **A** And I'm -- I'm sorry. Did I? No, I did not.

14 **Q** Chief, did you ask anybody to use SWAT team members on
15 the scene to make entry into the apartment as soon as
16 possible?

17 **A** Yes, I did. It was a --

18 **Q** Who did you ask?

19 **A** I believe he was a patrol sergeant with the sheriff's
20 department, but his name escapes me right now.

21 **Q** And why was it important to do it as soon as possible?

22 **A** Officer Benkert had indicated to me on his public
23 safety statement that he had hit the subject inside
24 the room with one of the rounds he fired, at least one
25 of the rounds he fired.

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1 Q So you knew that he needed to be helped as soon as
2 possible?

3 A I believed he was probably in need of aid, yes.

4 Q And you understand that he bled to death while you
5 were standing outside?

6 A Yes.

7 Q Did the SWAT team make entrance?

8 A Yes.

9 Q And how soon did that occur? 70 minutes after the
10 fact?

11 A I don't have the exact, but 70-some minutes after.

12 Q Was there any need for the officers to go in at the
13 point that they did?

14 MR. ESTES: Objection to form;
15 misstates the record.

16 A And I'm sorry, "go in"?

17 Q (By Mr. Connelly) Was there any need for the officers
18 to go into Doug Ostling's apartment?

19 MR. ESTES: Same objection.

20 THE VIDEOGRAPHER: This is the
21 videographer. We are off the record. The time is
22 12:44. One moment, please.

23 (Brief recess.)

24 (Exhibit No. 5 marked for
25 identification.)

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1 THE VIDEOGRAPHER: We are back on
2 the record. The time is 12:55. Please proceed.

3 Q (By Mr. Connelly) All right, Chief. I just only have
4 a couple more questions.

5 Before this shooting, and I had indicated earlier
6 that there was five minutes between the time that they
7 arrived at the house and the time that they shot Doug
8 Ostling. It actually was less than that. It was 4
9 minutes and 50 seconds.

10 Was there any reason that they had to hurry into
11 that room to see Douglas Ostling?

12 MR. ESTES: Objection to form.

13 Go ahead.

14 A Hurry into the room, no, sir.

15 Q (By Mr. Connelly) Is there any reason they couldn't
16 have waited?

17 MR. ESTES: Objection to form.

18 A In my opinion, no. They needed to check the welfare
19 of Mr. Ostling.

20 Q (By Mr. Connelly) Was there any reason they couldn't
21 have taken more time and calmed the situation down?

22 MR. ESTES: Objection to form.

23 A I'm sorry --

24 Q (By Mr. Connelly) What I'm looking for --

25 A Say it again, please.



Search

Home Profile Account

Jeffrey Benkert

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Worked at Bainbridge Island Police Department (Field Training Officer) Went to Westlake High Lives in Poulsbo, Washington Married to Jennica Benkert From Woodland Hills, California Born on June 8

Education and Work

Employers

Bainbridge Island Police Department

Field Training Officer

High School

Westlake High

Class of 1998

Sports

Favorite Teams

Seattle Seahawks

Activities and Interests

Other

The Smell of Water Inside the Pirates of the Caribbean Ride, In Memory of "The LAPD SWAT Fallen", Crown Royal, In-N-Out Burger

Basic Information

About Jeffrey

The person who has nothing for which he is willing to fight, nothing which is more important than his own personal safety, is a miserable creature and has no chance of being free unless made and kept so by the exertions of better men than himself.

Sex

Male

Relationship Status

Married to Jennica Benkert

Anniversary

August 3, 2002

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Friends

Married to

Jennica Benkert

Friends (92)

William Gutierrez

Grant Bell

Ted Rought

Amy Lowdermilk

Robert Scott

Rob Corn

James M Cherrette

Candie Stinebring

David Lester

Ryan Lowdermilk

Family

Kylie Benkert Sister

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Jeffrey Benkert

for those who know what I'm talking about...the rose parade just isn't the same without Bob and Steph...I stayed awake for nothing.

January 1 at 2:17pm

Ryan Judd likes this.



Cristy Booher Agreed

January 1 at 3:08pm



Ryan Judd She had a bad cold this year and sounded like a man, it was awkward!!!

January 1 at 8:18pm



David Evans

Men like you are rare. I just found out what happened. Read my message to you.

You did the right thing. It is tragic. But you did your job. Very few men would I ever trust to be a cop. You have always shown good judgement and a cool head. God bless you and your partner. California lost a good man when you moved.

December 23, 2010 at 2:34am via iPhone

RECENT ACTIVITY

Jeffrey likes In-N-Out Burger and Seattle Seahawks.

Jeffrey is now friends with Ryan Hughes and Sonny Gonzalez.

Jeffrey and Michel Quiroz are now friends. · Add Michel as Friend

RECENT ACTIVITY

Jeffrey and Billy Montgomery are now friends. · Add Billy as Friend



Francois Reese

Hey man how you doing? Heard you did some combat qual????!!

November 4, 2010 at 11:00pm via iPhone



Jeffrey Benkert no sweat here...bad guy should have listened a little better

November 5, 2010 at 1:14pm



Francois Reese Cool. Glad to hear it

November 5, 2010 at 3:13pm

RECENT ACTIVITY

Jeffrey and Ted Rought are now friends. · Add Ted as Friend



Cody Matheny

your soooooo cute lolz

November 2, 2010 at 12:25am



Kylie Benkert

I just want you to know that I'm so proud of you! Oh, and that I love you!

October 29, 2010 at 11:23am

RECENT ACTIVITY

Jeffrey is now friends with Jamie Dilbeck Montoya and Tim Wayne.



Zack Goldstein

Glad to hear you are safe

October 27, 2010 at 11:30pm via iPhone



Robert Scott



Robert asks: Will you join me in committing to vote?
Join the Commit to Vote Challenge and inspire your friends to vote



BAINBRIDGE ISLAND POLICE GENERAL ORDERS MANUAL

7. Only opened containers that contain an alcoholic beverage will be emptied or destroyed at the scene by the investigating Officer.
8. The Washington State Liquor Control Board will be notified of any business establishment that is found to be serving or selling alcoholic beverages to persons under twenty-one years of age.

NOTE: In all alcohol related offenses involving minors, Officers should remain as objective as possible, enforcing these laws in a consistent manner. The guidelines stated will provide direction to the Officer; however, situations may arise where those guidelines will not be practical, causing the Officer to depend on his own knowledge and judgement to take the appropriate action. If an Officer chooses not to take formal action, the reason(s) will be articulated in the incident report.

13.135 DEALING WITH THE MENTALLY ILL

Purpose: It is the purpose of this policy to provide guidance to officers when dealing with suspected mentally ill persons.

Policy: Dealing with individuals in enforcement and related contexts who are known or suspected to be mentally ill carries the potential for violence, requires an Officer to make difficult judgments about the mental state and intent of the individual, and requires special police skills and abilities to effectively and legally deal with the person so as to avoid unnecessary violence and potential civil litigation. Given the unpredictable and sometimes violent nature of the mentally ill, officers should never compromise or jeopardize their safety or the safety of others when dealing with individuals displaying symptoms of mental illness. In the context of enforcement and related activities, officers shall be guided by Washington state laws regarding the detention of the mentally ill. Officers shall use this policy to assist them in defining whether a person's behavior is indicative of mental illness and dealing with the mentally ill in a constructive and humane manner.

A. DEFINITIONS

Mental Illness: A subject may suffer from mental illness if he or she displays an inability to think rationally, exercise adequate control over behavior or impulses (e.g. aggressive, suicidal, homicidal, sexual), and/or take responsible care of his or her welfare with regard to basic provisions for clothing, food, shelter, or safety.

B. PROCEDURES

1. Recognizing Abnormal Behavior

Mental illness is often difficult for even the trained professional to define in a given individual. Officers are not expected to make judgments of mental or emotional disturbance but rather to recognize behavior that is potentially destructive and/or dangerous to self or others. The following are generalized signs and symptoms of behavior that may suggest mental illness although officers should not rule out other potential causes such as reactions to narcotics or alcohol or temporary emotional disturbances that are situationally motivated. Officers should evaluate the following and related symptomatic behavior in the total context of the situation when making judgments about an individual's mental state and need for intervention absent the commission of a crime.

- a. **DEGREE OF REACTIONS:** Mentally ill persons may show signs of strong and unrelenting fear of persons, places, or things. The fear of people or crowds, for example, may make the individual extremely reclusive or aggressive without apparent provocation.
- b. **APPROPRIATENESS OF BEHAVIOR:** An individual who demonstrates extremely inappropriate behavior for a given context may be emotionally ill.

BAINBRIDGE ISLAND POLICE GENERAL ORDERS MANUAL

For example, a motorist who vents his frustration in a traffic jam by physically attacking another motorist may be emotionally unstable.

- c. **EXTREME RIGIDITY OR INFLEXIBILITY:** Emotionally ill persons may be easily frustrated in new or unforeseen circumstances and may demonstrate inappropriate or aggressive behavior in dealing with the situation.
 - d. In addition to the above, a mentally ill person may exhibit one or more of the following characteristics:
 1. Abnormal memory loss related to such common facts as name, home address (although these may be signs of other physical ailments such as injury or Alzheimer's disease);
 2. Delusions, the belief in thoughts or ideas that are false, such as delusions of grandeur ("I am Christ"), or paranoid delusions ("Everyone is out to get me");
 3. Hallucinations of any of the five senses (e.g. hearing voices commanding the person to act, feeling one's skin crawl, smelling strange odors);
 4. The belief that one suffers from extraordinary physical maladies that are not possible, such as persons who are convinced that their heart has stopped beating for an extended period of time; and/or
 5. Extreme fright or depression.
2. **Determining Danger:** Not all mentally ill persons are dangerous while some may represent danger only under certain circumstances or conditions. Officers may use several indicators to determine whether an apparently mentally ill person represents an immediate or potential danger to himself, the Officer, or others. These include the following:
- a. The availability of any weapons to the suspect.
 - b. Statements by the person that suggest to the Officer that the individual is prepared to commit a violent or dangerous act. Such comments may range from subtle innuendos to direct threats that, when taken in conjunction with other information, paint a more complete picture of the potential for violence.
 - c. A personal history that reflects prior violence under similar or related circumstances. The person's history may be known to the Officer, or family, friends, or neighbors may be able to provide such information.
 - d. Failure to act prior to arrival of the Officer does not guarantee that there is no danger, but it does in itself tend to diminish the potential for danger.
 - e. The amount of control that the person demonstrates is significant, particularly the amount of physical control over emotions of rage, anger, fright, or agitation. Signs of a lack of control include extreme agitation, inability to sit still or communicate effectively, wide eyes, and rambling thoughts and speech. Clutching one's self or other objects to maintain control, begging to be left alone, or offering frantic assurances that one is all right may also suggest that the individual is close to losing control.
 - f. The volatility of the environment is a particularly relevant factor that officers must evaluate. Agitators that may affect the person or a particularly combustible environment that may incite violence should be taken into account.
3. **Dealing with the Mentally Ill:** Should the Officer determine that an individual may be mentally ill and a potential threat to himself, the Officer, or others, or may otherwise require law enforcement intervention for humanitarian reasons as prescribed by statute, the following responses may be taken:
- a. Request a backup Officer and always do so in cases where the individual will be taken into custody.
 - b. **Take steps to calm the situation.** Where possible, eliminate emergency lights and sirens, disperse crowds, and assume a quiet non-threatening manner when approaching or conversing with the individual. **Where violence or destructive**

BAINBRIDGE ISLAND POLICE GENERAL ORDERS MANUAL

- acts have not occurred, avoid physical contact, and take time to assess the situation.
- c. Move slowly and do not excite the disturbed person. Provide reassurance that the police are there to help and that he will be provided with appropriate care.
 - d. Communicate with the individual in an attempt to determine what is bothering him. Relate your concern for his feelings and allow him to ventilate his feelings. Where possible, gather information on the subject from acquaintances or family members and/or request professional assistance if available and appropriate to assist in communicating with and calming the person.
 - e. Do not threaten the individual with arrest or in any other manner as this will create additional fright, stress, and potential aggression.
 - f. Avoid topics that may agitate the person and guide the conversation toward subjects that help bring the individual back to reality.
 - g. Always attempt to be truthful with a mentally ill individual. If the subject becomes aware of a deception, he may withdraw from the contact in distrust and may become hypersensitive or retaliate in anger.
- 4. Taking Custody or Making Referrals:** Based on the overall circumstances and the Officer's judgment of the potential for violence, the Officer may provide the individual and family members with referrals on available community mental health resources or take custody of the individual in order to seek an involuntary emergency evaluation.
- a. Make mental health referrals when, in the best judgment of the Officer, the circumstances do not indicate that the individual must be taken into custody for his own protection or the protection of others or for other reasons as specified by State law.
 - b. Summon an immediate supervisor or the Officer in charge prior to taking into custody a potentially dangerous individual who may be mentally ill or an individual who meets other legal requirements for involuntary admission for mental examination. When possible, summon crisis intervention specialists to assist in the custody and admission procedures.
 - c. Once a decision has been made to take an individual into custody, do it as soon as possible to avoid prolonging a potentially volatile situation. Remove any dangerous weapons from the immediate area, and restrain the individual if necessary. Using restraints on mentally ill persons can aggravate their aggression. Officers should be aware of this fact, but should take those measures necessary to protect their safety.
 - d. Report the incident whether or not the individual is taken into custody. Ensure that the report is as explicit as possible concerning the circumstances of the incident and the type of behavior that was observed. Terms such as "out of control" or "psychologically disturbed" should be replaced with descriptions of the specific behaviors involved. The reasons why the subject was taken into custody or referred to other agencies should be reported in detail.

13.140 UNSECURED BUILDINGS

It is the policy of this Department to provide building security as time allows, through aggressive patrol by the Officers.

When an establishment is found to be open and unattended or unsecured, the discovering Officer will notify dispatch of the incident and give the location. Absent exigent circumstance, no Officer will enter a building alone prior to the arrival of assistance. A second Officer will be assigned to assist the initial Officer at the scene and more may be assigned as needed.

Whenever an Officer enters an unsecured building to clear it or check building status, an attempt will be made to contact either the owner, manager, or an employee. Communications dispatchers are the primary



OFFICER BENKERT



OFFICER PORTREY

